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B I L L S,

PUBLIC:

SIX VOLUMES.

—(1.)—

ADMIRALTY COURT (IRELAND)

TO

CLERK TO JUSTICES IN COUNTIES.

Session

5 February —— 21 *August* 1867.

VOL. I.

1867.

B I L L S:

1867.

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B I L L

TO

Extend the Jurisdiction, alter and amend the Procedure and Practice, and to regulate the Establishment of the Court of Admiralty in Ireland.

WHEREAS it is expedient to extend the Jurisdiction and alter and amend the Procedure and Practice of the High Court of Admiralty of Ireland; to alter the Mode of Appealing therefrom; to regulate the Establishment of the Court, and to substitute Stamps for Court Fees therein: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

1. This Act may be cited as "The Court of Admiralty (Ireland) Act, 1867." Short Title of Act.

2. In the Interpretation and for the Purposes of this Act (if not inconsistent with the Context or Subject) the following Terms shall have Interpretation of Terms.

24 Vict. c. 10. s. 2.

have the respective Meanings herein-after assigned to them; that is to say,

"Ship" shall include any Description of Vessel used in Navigation not exclusively propelled by Oars:

"Cause" shall include any Cause, Suit, Action, Matter, or other Proceeding in the Court of Admiralty of Ireland:

"The Court of Admiralty" shall mean the Court of Admiralty of Ireland:

"The Judge" shall mean the Judge of the said Court of Admiralty for the Time being:

"Her Majesty in Council" shall mean Her present Majesty, Her Heirs or Successors, in the Privy Council in England:

19 & 20 Vict. c. 92. s. 2.

"The Lord Chancellor" shall mean and include the Lord High Chancellor, Lord Keeper, and Lords Commissioners for the Custody of the Great Seal of Ireland for the Time being:

"Local Court" shall mean and include the Court of the Recorder of the Borough of Cork, the Court of the Recorder of the Borough of Belfast, and the Court of any other Recorder, or of any Chairman of Quarter Sessions in Ireland, to whom Jurisdiction in Admiralty Cases shall be given by virtue of this Act.

Commencement.

3. Except with respect to the Appointment of Officers, in which respect this Act shall take effect from its passing, this Act shall take effect from and immediately after the *Second Day of November One thousand eight hundred and sixty-seven* (which Time is in this Act referred to as the Commencement of this Act).

Repeal of 23 & 24 G. 3. c. 14. ss. 1, 2, & 3 (Irish), and so much of 2 & 3 W. 4. c. 116. s. 1., as relates to the Salary of the Judge of the Admiralty Court of Ireland, and of 20 & 21 Vict. c. 79. s. 14.

4. From and after the *Commencement of this Act*, the *First*, *Second*, and *Third* Sections of the Act passed by the Parliament of Ireland of the Twenty-third and Twenty-fourth Years of the Reign of King George the Third, Chapter Fourteen, and so much of the First Section of the Act of the Second and Third Years of the Reign of King William the Fourth, Chapter One hundred and sixteen, as relates to the Salary of the Judge of the Admiralty Court in Ireland, and the Fourteenth Section of "The Probates and Letters of Administration Act (Ireland), 1857," shall be and the same are respectively hereby repealed.

Cesser of Offices.

5. From and after the *Commencement of this Act*, the present Judge, Registrar (if any), Marshal, and Seal Keeper of the High Court of Admiralty of Ireland shall cease to hold their respective Offices.

PART I.—COURT AND OFFICERS.

6. There shall be One Judge of the High Court of Admiralty of Ireland, and One Registrar, who shall also act as Seal Keeper and Secretary of the Judge, and One Marshal of the said Court. One Judge and One Registrar of Court.

7. It shall be lawful for Her Majesty, Her Heirs and Successors, from Time to Time, by Letters Patent under the Great Seal of Ireland, to appoint a Person, being or having been an Advocate of the Court of Admiralty of Ireland or a Barrister-at-Law of not less than *Fifteen Years* standing, to be such Judge; and the said Judge shall hold his Office during good Behaviour, but may be removed by Her Majesty, Her Heirs or Successors, on an Address of both Houses of Parliament; and the said Judge shall have full Power and Authority to hear and determine all manner of Civil, Maritime, and other Causes to the Jurisdiction of the said Court now belonging, and shall also have such Jurisdiction as is herein-after by this Act given to the said Court of Admiralty. Appointment of Judge.

8. Every Judge of the Court of Admiralty shall, before executing any of the Duties of his Office, take the following Oath, which the Lord Chancellor or the Master of the Rolls for the Time being is hereby respectively authorized and required to administer: Judge before acting to take the following Oath.

'I *A.B.* do solemnly and sincerely promise and swear, That I will 'duly and faithfully, and to the best of my Skill and Power, 'execute the Office of Judge of the High Court of Admiralty of 'Ireland.

'So help me GOD.'

9. No Judge appointed under this Act shall during his Continuance in such Office be capable of being elected or sitting as a Member of the House of Commons, nor shall he during such Period practise as an Advocate or Barrister-at-Law. Judge not to sit in Parliament or practise as an Advocate or Barrister.

10. The Lord Lieutenant or other Chief Governor or Governors of Ireland may from Time to Time, by Warrant under his Hand, appoint a fit Person to be the Registrar of said Court, and also One other fit Person to be the Marshal of said Court; and the Persons so appointed shall hold their respective Offices by the same Tenure as Officers serving in an established Capacity in the permanent Civil Service of the State, but shall be removable by the Order of the Lord Chancellor, at the Instance of the Judge of the said Court of Lord Lieutenant may appoint Registrar and Marshal.

Admiralty, for some reasonable Cause to be expressed in the said Order.

Registrar to attend the Court of Appeal in Chancery.

11. The Registrar of the said Court of Admiralty shall attend the hearing by the Court of Appeal in Chancery of all Appeals preferred thereto by virtue of this Act, and (subject to any Order of the said Court of Appeal in Chancery) shall transact and do all such Acts and Things as have heretofore been done by the Registrar of Appeals and Provocations Spiritual in the High Court of Delegates in Ireland in Cases of Appeal to that Court from the said Court of Admiralty.

Officers not to execute their Duties by Deputy, except in case of Illness, &c. 3 & 4 Vict., c. 66. ss. 9. 10.

12. From and after the *Commencement of this Act*, the Registrar and all other Officers of the said Court of Admiralty shall perform their Duties in Person, and not by Deputy, except in case of temporary Illness or other reasonable Cause allowed by the Judge: Provided always, that in case any Officer of the said Court of Admiralty shall be prevented by temporary Illness or other reasonable Cause allowed as aforesaid from attending to his Duties, the Judge may appoint a fit and proper Person to act as the Deputy of such Officer; and no such Deputy shall continue to act for any longer Time than shall be allowed and specified in and by the Order to be made on each such Occasion by the Judge; and all the Powers and Authorities of the Officer in whose Place any such Deputy shall be appointed may be exercised by such Deputy during the Time while he shall be so authorized to act as aforesaid.

No Officer of the Court to practise therein. 20 & 21 Vict. c. 79. s. 26.

13. No Registrar or other Officer of the said High Court of Admiralty, save the Marshal, nor any Clerk of said Court, shall, during the Time of his holding such Office, directly or indirectly, practise as an Advocate, Barrister, Proctor, Solicitor, or Attorney, or as Clerk to any Proctor, Solicitor, or Attorney, or participate in the Fees of any other Person so practising; and the Marshal of said Court shall not, directly or indirectly, practise therein, or participate in the Fees of any other Person so practising.

Power to Judge to appoint Chief Clerk to Registrar and other Clerks.

14. It shall be lawful for the Judge of the said Court of Admiralty to appoint a Chief Clerk to assist in the Duties of the Registrar's Office, and, with the Approval of the Commissioners of Her Majesty's Treasury, such other Clerk or Clerks as may be necessary for the Business of the said Court, and such Chief Clerk, Clerk or Clerks, shall hold their respective Offices by the same Tenure as Officers serving in an established Capacity in the permanent Civil Service of the State, but shall be removable by the Order of the Judge of the said

said Court, with the Concurrence of the Lord Chancellor, for some reasonable Cause to be stated in the said Order.

Trainbearer, Crier, Tipstaff, and Servants.

15. It shall be lawful for the Judge of the said Court of Admiralty from Time to Time to appoint a Crier and Tipstaff to be attached to the said Court, and, with the Approval ofthe Commissioners of Her Majesty's Treasury, such Servants as may be required for the said Court; and such Crier, Tipstaff, and Servants shall hold their respective Offices and Situations during the Pleasure of the said Judge.

Salaries of Judge and Officers.

16. *The Salaries of the Judge and Officers of the said Court of Admiralty shall be as follows; namely,—*

Of the Judge *Pounds a Year;*
Of the Registrar *Pounds a Year;*
Of the Marshal *Pounds a Year; besides such travelling and other Expenses necessarily incurred in the Execution of his Duty as the Judge, with the Approval of the Commissioners of Her Majesty's Treasury, shall allow.*

Of the Chief Clerk in the Registrar's Office and the Clerk of the said Court, and of the Crier, Tipstaff, and Servants of the said Court, such Salaries respectively as the Judge, with the Consent of the Commissioners of Her Majesty's Treasury, shall appoint.

Retiring Pension to Judge.

17. *Her Majesty, by Letters Patent under the Great Seal of the United Kingdom, may grant unto any Person executing the Office of Judge in pursuance of this Act an Annuity not exceeding* *to commence immediately after the Period when the Person to whom such Annuity shall be granted shall resign the said Office of Judge, and to continue from thenceforth during the natural Life of the Person to whom the same shall be granted; provided that it shall be lawful for Her Majesty, in and by such Letters Patent, to limit the Duration of Payment of such Annuity or any Part thereof to the Periods of Time during the natural Life of such Person in which he shall not exercise any Office of Profit under Her Majesty, so that such Annuity, together with the Salary and Profits of such other Office, shall not exceed in the whole the said Sum of* *; provided also, that no Annuity granted to any Person having executed the Office of Judge under this Act shall be valid unless such Person shall have continued in the said Office, or in such Office and in the Office of Judge of the present Court of Admiralty or some other Judicial Office, for the Period of Fifteen Years, or shall be afflicted with some permanent Infirmity disabling him from the*

the due Execution of his Office, which shall be distinctly recited in the said Grant.

Compensation to Judge and any Officer of present Court of Admiralty not re-appointed under this Act.

18. *In case the present Judge of the Court of Admiralty be not appointed to the Office of Judge of the said Court under this Act, he shall be entitled to receive by way of Compensation during his Life an Annuity equal to his Salary at the Commencement of this Act; and such Annuity shall be charged on and payable out of the Consolidated Fund of the United Kingdom; and in case any other Person who shall cease by the Provisions of this Act to hold any Office in the said Court be not appointed to some Office of not less Emolument under this Act, it shall be lawful for the Commissioners of Her Majesty's Treasury to grant to such Person such special annual Allowance and in such Manner as by the Seventh Section of "The Superannuation Act, 1859," is provided in case of Persons whose Offices have been abolished.*

Power to Judge to appoint Superannuation of Officers.

19. *Any Officer of the said Court of Admiralty who shall resign his Office shall be entitled to receive such Superannuation Allowance as the Commissioners of Her Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the Amount of such Superannuation Allowance the said Commissioners shall take into consideration the whole Period during which any such Person shall have been permanently employed in the said Office or in any other Public Office, and shall proceed according to the Principles laid down by "The Superannuation Act, 1859."*

Salary of Judge and Compensations to be charged on Consolidated Fund, other Salaries, &c. out of Monies to be provided by Parliament.

20. *The Salary of the Judge of the said Court of Admiralty, and any retiring Annuity granted to a Judge of the said Court under this Act, shall be charged on and payable out of the Consolidated Fund of the United Kingdom; and the Salaries of all Officers or Servants of the said Court, and any Superannuation Allowance which may be granted to any such Officer or Servant under this Act, shall be paid out of such Funds as Parliament shall from Time to Time provide for that Purpose.*

Salaries to be paid quarterly.

21. Salaries under this Act shall be paid in equal quarterly Payments, free from Deduction (except for Income Tax), on the usual Quarter Days, with a proportionate Part to the Person entitled to the Salary, or his legal Personal Representatives (as the Case may be), for any broken Quarter, from the Day of his Appointment to the First Quarter Day, or from the last Quarter Day to the Day of the vacating of the Office by Resignation, Death, or otherwise.

22. The

Court to be a Court of Record. 24 Vict. c. 10. s. 14.

22. The Court of Admiralty shall be a Court of Record for all Intents and Purposes.

Protection of the Judge of Court of Admiralty. 3 & 4 Vict. c. 65. s. 19.

23. No Action shall lie against the Judge of the said Court of Admiralty for Error in Judgment, and the Judge shall be entitled to and have all the Privileges and Protection in the Exercise of his Jurisdiction as Judge of the said Court which by Law appertain to the Judges of Her Majesty's Superior Courts of Common Law in the Exercise of their several Jurisdictions.

The Judge may appoint a Surrogate. 20 & 21 Vict. c. 79. s. 11.

24. The Judge of the said Court of Admiralty shall be entitled, as heretofore, to appoint a Surrogate, who, in case of the Illness or Absence of the Judge, or in any Cause in which the Judge, his Wife or Child, or any Member of his Family, shall have an Interest, and also during any Period which shall be specified by any General Order of the Court, may sit for the Judge, and exercise all his Powers.

The Surrogate or Deputy to be remunerated by the Treasury.

25. *The Surrogate or Deputy to be appointed by the Judge as aforesaid shall be paid such Remuneration as the Judge, with the Approbation of the Commissioners of Her Majesty's Treasury, shall allow, provided that the same shall not exceed in any One Year the Sum of One hundred Pounds.*

Power to Judge to appoint "Clerk in Court."

26. *It shall be lawful for the Judge of the said Court of Admiralty, with the Consent of the Commissioners of Her Majesty's Treasury, from Time to Time to appoint a competent Writer of Shorthand to attend the Court for the Purpose of taking down and transcribing all such Evidence, Statements, and Matters as the Judge shall direct; and any Person so appointed shall hold Office during the Pleasure of the said Judge, and shall be paid such annual Salary as the Commissioners of Her Majesty's Treasury, on the Recommendation of the Judge, shall appoint; and there shall be charged, as Part of the Costs in any Cause in the said Court, such Fees for Copies of the Minutes of any Evidence taken down by such Shorthand Writer during the Progress of such Cause as shall be appointed by General Orders and sanctioned by the Commissioners of Her Majesty's Treasury; and there shall be One such Copy made in every Cause for the Use of the Court, and certified as true and correct by such Shorthand Writer, and filed as a Record of the Court, and the Fees payable therefor shall be charged as Court Fees; and be paid for by such Party in the first instance, and in such Manner as shall be directed by General Orders, and shall be deemed to be Part of such Party's Costs in the Cause.*

Barristers-at-Law, Attorneys-at-Law, and Solicitors to be at liberty to practise in High Court of Admiralty. 22 & 23 Vict. c. 6.

27. All Barristers-at-Law, and all Attorneys-at-Law and Solicitors, shall, from and after the Time when this Act shall come into operation, be entitled to practise as Barristers, Attorneys, and Solicitors respectively in all Matters and Causes whatsoever in the said Court of Admiralty; and the said Barristers-at-Law shall and may have and exercise the same Rights and Privileges of practising in the said Court of Admiralty as Advocates now have and enjoy in the said Court, and the said Attorneys and Solicitors shall and may have and exercise the same Rights and Privileges of practising in the said Court of Admiralty as Proctors now have and enjoy in the said Court; and the said Advocates and Barristers-at-Law shall have respectively the same Rank and Precedence in the said Court of Admiralty which they now have in the Superior Courts of Common Law, unless and until Her Majesty shall otherwise order: Provided always, that all Attorneys-at-Law and Solicitors practising in the Court of Admiralty shall be subject to the Authority of the Judge in the like Manner as Attorneys of the Queen's Bench are subject to the Authority of that Court: Provided also, that the Queen's Advocate General in the Court of Admiralty for the Time being shall have and retain the same Rights, Rank, and Precedence in that Court as he now has therein by virtue of his said Office.

Admission of Wm. Russell Kelly and of articled Apprentices as Attorneys and Solicitors. 20 & 21 Vict. c. 79. s. 48.

28. Whereas William Russell Kelly has been lately admitted a Proctor of the said Court of Admiralty, and Charles Taylor, John Chambers Hamerton, Henry Albert Lee, and John Mallins have been duly articled as Apprentices to Proctors of the said Court of Admiralty: It is hereby enacted, That the said William Russell Kelly may, within *Six Months* from the *coming of this Act into operation*, and that each of them the said Charles Taylor, John Chambers Hamerton, Henry Albert Lee, and John Mallins, who shall complete the full Term of Service for which he has been bound as such Apprentice, may, within *Six Months* thereafter, be admitted, without any further Apprenticeship, and without the Payment of any Stamp Duty, Fee, Charge, or Gratuity whatsoever, as a Solicitor of the High Court of Chancery in Ireland; and upon the Production of an official Certificate of his being admitted or qualified to be admitted as a Proctor of the said Court of Admiralty, and upon signing the Roll of Solicitors of the said Court of Chancery, each of the Persons in this Clause above named shall respectively be entitled to be admitted as a Solicitor of that Court, and to be afterwards in like Manner admitted and enrolled as an Attorney of Her Majesty's Superior Courts of Law in Ireland.

29. The

PART II.—JURISDICTION OF THE COURT.

Jurisdiction in Cases of Salvage. 17 & 18 Vict. c. 104. s. 476.

29. Subject to the Provisions of "The Merchant Shipping Act, 1854," and "The Merchant Shipping Amendment Act, 1862," the Court of Admiralty shall have Jurisdiction to decide upon all Claims whatsoever relating to Salvage, and to enforce the Payment thereof, whether the Service in respect of which Salvage is claimed were performed upon the High Seas or within the Body of any County, or partly in the one Place and partly in the other, and whether the Wreck is found at Sea or cast upon the Land, or partly in the Sea and partly on Land.

Jurisdiction in Cases of Towage. 3 & 4 Vict. c. 65. s. 6.

30. The Court of Admiralty shall have Jurisdiction to decide all Claims and Demands in the Nature of Towage, and to enforce the Payment thereof, whether such Towage was performed within the Body of a County or upon the High Seas.

Jurisdiction in Cases of Damage. 3 & 4 Vict. c. 65. s. 6. 24 Vict. c. 10. s. 7.

31. The Court of Admiralty shall have Jurisdiction over any Claims for Damage received or done by any Ship, whether within the Body of a County or not.

As to Claims for building, &c. of Ships. 24 Vict. c. 10. s. 4.

32. The Court of Admiralty shall have Jurisdiction over any Claim for the building, equipping, or repairing of any Ship.

Jurisdiction of the Court in Claims for Necessaries. 24 Vict. c. 10. s. 5.

33. The Court of Admiralty shall have Jurisdiction over any Claim for Necessaries supplied to any Ship elsewhere than in the Port to which the Ship belongs.

Court of Admiralty to decide Questions as to Ownership, &c. of Ships. 24 Vict. c. 10. s. 8.

34. The Court of Admiralty shall have Jurisdiction to decide all Questions arising between the Co-Owners or any of them touching the Title to or the Ownership, Possession, Employment, and Earnings of any Ship registered at any Port in Ireland, or any Share thereof, and may settle all Accounts outstanding and unsettled between the Parties in relation thereto, and may direct the said Ship or any Share thereof to be sold, and may make such Order in the Premises as to it shall seem fit.

As to Claims for Wages and for Disbursements by Master of a Ship. 24 Vict. c. 10. s. 10.

35. The Court of Admiralty shall have Jurisdiction over any Claim by a Seaman of any Ship for Wages earned by him on board the Ship, whether the same be due under a special Contract or otherwise, and also over any Claim by the Master of any Ship for Wages earned by him on board the Ship, and for Disbursements made by him on account of the Ship.

 36. The

3 & 4 Vict. c. 65. in regard to Mortgages extended to Court. 24 Vict. c. 10. s. 11.

36. The Court of Admiralty shall have Jurisdiction over any Claim in respect of any Mortgage duly registered according to the Provisions of "The Merchant Shipping Act, 1854," whether the Ship or the Proceeds thereof be under Arrest of the said Court or not.

Sections 62 to 65 of 17 & 18 Vict. c. 104. extended to Court. 24 Vict. c. 10. s. 12.

37. The Court of Admiralty shall have the same Powers over any British Ship, or any Share therein, as are conferred upon the High Court of Chancery in Ireland by the Sixty-second, Sixty-third, Sixty-fourth, and Sixty-fifth Sections of "The Merchant Shipping Act, 1854."

Part 9 of 17 & 18 Vict. c. 104. extended to Court. 24 Vict. c. 10. s. 13.

38. The Court of Admiralty shall have the same Powers as are conferred upon the High Court of Chancery in Ireland by the Ninth Part of "The Merchant Shipping Act, 1854."

Extension of Jurisdiction of Court of Admiralty over Ships and Goods.

39. The Court of Admiralty shall have Jurisdiction over any Claim arising on any Charter-party, Bill of Lading, or other Contract respecting the Use or Hire of any Ship, or the Carriage of Goods therein, as between the immediate Parties to such Contract, or as between the Owner of the Ship and any Person claiming through or under any such Party, and over any Claim concerning any Ship or Goods relating to Freight, Insurance, Demurrage, Average (General or Particular), or short Delivery of or Damage to Cargo, and generally over any Claim of a Civil and Maritime Nature relating to any Ship, or to the Goods carried therein.

Power to file General Average Agreement.

40. Where, after the Commencement of this Act, any Persons enter into an Agreement for a Reference for the Ascertainment and Adjustment of the Amount and Proportion of their several Losses and Expenses in respect of General Average, any Party to the Agreement may, at any Time after the same is entered into, file in the High Court of Admiralty or in any County Court having Admiralty Jurisdiction an Attested Copy of the Agreement.

Jurisdiction over Average Agreements when filed.

41. On and after the filing of any such Agreement, the Court in which it is filed shall have Jurisdiction to entertain any Application of any Party to the Agreement, or of the Referee thereunder, respecting the Execution of any of the Provisions of the Agreement, or respecting any of the Rights, Powers, Duties, or Liabilities of the Parties thereto, or any of them; and on any such Application, as far as appears to the Court requisite for disposing of such Application, but not further or otherwise, the Court may proceed and direct and authorize

authorize Proceedings with respect to the issuing of Process and summoning and Examination of Witnesses, and in other respects as if a Suit or Admiralty Cause had been regularly instituted in the Court, and may make such Orders concerning the Subject of the Application and the Costs of it as seem just; and every such Order shall have the Effect and Consequences of an Order of the Court in a Suit or Admiralty Cause regularly instituted.

Court may exercise Jurisdiction in rem. or in personam. 24 Vict. c.10. s. 35.

42. The Jurisdiction conferred by this Act may be exercised either by Proceedings in rem or by Proceedings in personam.

Practice, &c. to be regulated by General Orders.

43. General Orders shall be from Time to Time made under this Act for the Purposes in this Act directed, and for regulating the Practice and Procedure of the High Court of Admiralty and of the Local Courts, and the Forms of Writs, Warrants, Summonses, Processes, and Proceedings therein or issuing therefrom, and the Duties of the Judges and Officers thereof, and the Fees to be taken therein.

Authority for making General Orders.

44. General Orders under this Act shall be made by the Lord Chancellor, with the Advice and Assistance of the Judge of the Court of Admiralty, and, as far as they relate to Fees, or Receipt and Expenditure of and accounting for Money, with the Approval of the Commissioners of Her Majesty's Treasury; and any General Orders under this Act may be made at any Time after the passing of this Act.

Certain Powers of Superior Courts extended to Court. 24 Vict. c.10. s. 17.

45. The Judge of the Court of Admiralty shall have all such Powers as are possessed by any of the Superior Courts of Common Law in Ireland, or any Judge thereof, to compel either Party in any Cause or Matter to answer Interrogatories, and to enforce the Production, Inspection, and Delivery of Copies of any Document in his Possession or Power.

Gaolers to receive Prisoners committed by Court of Admiralty. 3 & 4 Vict. c. 55. s. 20.

46. The Keeper for the Time being of any Common Gaol or Prison shall be bound to receive or take into his Custody all Persons who shall be committed thereunto by the said Court of Admiralty; and every Keeper of any Gaol or Prison who shall refuse to receive into his Custody any Person so committed, or wilfully or negligently suffer such Person to escape or go at large without lawful Warrant, shall be liable to the like Penalties and Consequences as if such Person had been committed to his Custody by any other lawful Authority.

Prisoners in contempt may be discharged. 3 & 4 Vict. c. 55. s. 21.

47. It shall be lawful for the Judge to order the Discharge of any Person who shall be in Custody for Contempt of the said Court, or for any other Cause other than Nonpayment of Money, on such Conditions as to the Judge shall seem just: Provided always, that the Order for such Discharge shall not be deemed to have purged the original Contempt in case the Conditions on which such Order shall be made be not fulfilled.

Judge and Registrar to have same Power as to Arbitration as Judges and Masters at Common Law. 24 Vict. c. 10. s. 23.

48. All the Powers possessed by any of the Superior Courts of Common Law, or any Judge thereof, under "The Common Law Procedure Act, 1856," and otherwise with regard to References to Arbitration, Proceedings thereon, and the enforcing of Awards of Arbitrators, shall be possessed by the Judge of the Court of Admiralty in all Cases and Matters depending in the said Court; and the Registrar of the said Court of Admiralty shall possess as to such Matters the same Powers as are possessed by the Masters of the said Superior Courts of Common Law in relation thereto.

Section 15 of 17 & 18 Vict. c. 104. extended to Registrar of Court of Admiralty. 24 Vict. c. 10. s. 24.

49. The Registrar of the Court of Admiralty shall have the same Powers under the Fifteenth Section of "The Merchant Shipping Act, 1854," as are by the said Section conferred on the Masters of Her Majesty's Court of Queen's Bench in England and Ireland.

Registrar to have Power to administer Oaths.

50. The Registrar of the said Court of Admiralty shall have Power to administer Oaths in relation to any Cause or Matter depending in the said Court, and shall have also such other Powers as may be given him for the Discharge of his Functions as Registrar by any Rule, Order, or Regulation to be made in pursuance of this Act.

Limitation of Maritime Liens.

51. A Maritime Lien shall remain in force as next herein-after specified; that is to say,—

If, after the Time when the Lien first accrues, the Ship has been in any Port or Ports in England for *One Month*, and the Person entitled to enforce the Lien has been in England for the same *Month*, the Lien shall remain in force until the Expiration of *Three Months* from the End of that *Month*, and no longer:

If, after the Time when the Lien first accrues, the Ship has been in any Port or Ports in England for *Two Months*, but the Person entitled to enforce the Lien has not been in England for *One Month* within that Period of *Two Months*, the Lien shall remain in force until the Expiration of *One Year* from the Time when it

it first accrued, or until the Expiration of *Three Months* from the End of that Period of *Two Months*, whichever last happens, and no longer:

In other Cases the Lien shall remain in force until the Expiration of *Three Years* from the Time when it first accrued, and no longer, unless the Person entitled to enforce the Lien, after the Expiration of that Time, shows to the Satisfaction of the Court that he has proceeded with reasonable Diligence.

Restriction on Arrest of Property.

52. The Party at whose Instance any Property is arrested under a Warrant of the High Court of Admiralty shall be liable to be condemned in all Costs and Expenses occasioned thereby, and in Damages for the Detention of the Property, unless he shows to the Satisfaction of the Court that he could not, without such Arrest, have obtained Bail or other Security for the Sum in which the Cause is instituted, or that he had otherwise good and sufficient Reason for having caused the Issue and Execution of the Warrant of Arrest.

Part III.—Practice and Procedure.

1.—*Payment of Money into Court, &c.*

Money payable into Court to be lodged in the Bank of Ireland.

53. All Money payable into the Court of Admiralty under any Order of the Court shall be lodged, under Orders of the Court, to be made from Time to Time, in the Bank of Ireland, to an Account there to be opened in the Name of the Registrar of the High Court of Admiralty of Ireland, to the Credit of the Cause in which such Order may be made, and the same shall not be drawn out therefrom save in pursuance of an Order of the Court, by the Cheque or Draft of the said Registrar, countersigned by the Judge.

2.—*Evidence.*

Rules of Evidence in Common Law Courts to be observed. 20 & 21 Vict. c. 79. s. 38.

54. The Rules of Evidence observed in the Superior Courts of Common Law shall be applicable to and observed in the Trial of all Matters and Facts in the Court of Admiralty.

Power to examine vivâ voce in open Court. 3 & 4 Vict. c. 65. s. 7.

55. In any Cause depending in the Court of Admiralty, the Court, if it shall think fit, may summon before it and examine or cause to be examined Witnesses by Word of Mouth, and either before or after Examination by Deposition or before a Commissioner, as hereafter mentioned, and Notes of such Evidence shall be taken down in Writing by the Judge or Registrar, or by such other

Person or Persons and in such Manner as the Judge of the said Court shall direct.

Evidence may be taken vivâ voce before a Commissioner. 3 & 4 Vict. c. 65. s. 8.

56. The Court may, if it shall think fit, by Order in any such Suit, appoint some Person, being a Barrister-at-Law of not less than *Seven* Years standing, an Examiner to take Evidence in such Suit by Word of Mouth upon Oath, which every such Examiner is hereby empowered to administer, at such Time or Times, Place or Places, and as to such Fact or Facts, and in such Manner, Order, and Course, and under such Limitations and Restrictions, and to transmit the same to the Registry of the said Court in such Form and Manner as in and by the said Order shall be directed; and such Examiner shall be attended, and the Witnesses shall be examined, cross-examined, and re-examined, by the Parties, their Counsel, Solicitors, Attorneys, or Agents, if such Parties or either of them shall think fit so to do; and such Examiner shall, if need be, make a special Report to the Court touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the said Court of Admiralty is hereby authorized to institute such Proceedings and make such Order or Orders upon such Report as Justice may require and as may be instituted or made in any Case of Contempt of the said Court.

Attendance of Witnesses and Production of Books, &c. may be compelled by Subpœna. 3 & 4 Vict. c. 65. s. 9.

57. It shall be lawful in any Suit depending in the said Court of Admiralty for the Judge or for any such Examiner appointed in pursuance of this Act to require the Attendance of any Witness, and the Production of any Deeds, Evidences, Books, or Writings, by Writ to be issued by such Judge or Examiner in such Form as shall be directed by the General Orders to be made under this Act or as nearly thereto as may be, and every Person disobeying any such Writ so to be issued by the said Judge or Examiner shall be considered as in Contempt of the said Court of Admiralty, and may be punished for such Contempt in the said Court.

Judge of Admiralty may appoint Solicitors, &c. to administer Oaths, &c. 17 & 18 Vict. c. 78. s. 3.

58. The Judge of the Court of Admiralty may and he is hereby empowered, from Time to Time and as and when he may think fit, to appoint any Person practising as a Solicitor, Attorney, or Notary Public in any Part of Ireland to administer Oaths, and take Declarations, Affirmations, and Attestations in or relating to any Matter, Suit, or Proceeding in the Court of Admiralty; and such Persons shall be styled "Commissioners to administer Oaths in Admiralty," and shall be entitled to charge and take a Fee of *One Shilling and Sixpence* for every Oath administered by them, and for every Declaration, Affirmation, and Attestation taken by them, subject to

to any Order of the Judge of the said Court varying or annulling the same.

59. *The Fiat or Document by which any such Commissioner shall be appointed shall bear a Stamp of* One Pound, *and it shall not be necessary that any such Appointment shall be published in the Dublin Gazette.*

Commissioner's Appointment to bear a Stamp of One Pound. 17 & 18 Vict. c. 78. s. 4.

60. It shall not be necessary to sue out any Commission to take the personal Answer of any Party in any Cause in the Court of Admiralty; and any such Answer may be filed without any further or other Formality than is required in the swearing and filing of an Affidavit.

Personal Answers may be taken without a Commission. 17 & 18 Vict. c. 78. s. 5.

61. All Answers, Examinations, Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations in or relating to any Matter, Suit, or Proceeding in the said Court of Admiralty may be sworn and taken in Ireland before any Commissioner appointed as aforesaid, or before any Commissioner to administer Oaths in Chancery.

Answers, Affidavits, &c., how to be sworn and taken in Ireland. 17 & 18 Vict. c. 78. s. 7.

62. All Answers, Examinations, Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations in or relating to any Cause in the said Court of Admiralty may be sworn and taken in England, Scotland, or the Isle of Man, or the Channel Islands, or any of them, or, in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty in Foreign Parts, before any Judge, Court, Commissioner, Notary Public, or Person lawfully authorized to administer Oaths in such Country, Island, or Plantation or Place respectively, or before any of Her Majesty's Consuls or Vice-Consuls in any Foreign Parts out of Her Majesty's Dominions; and the Judge and other Officers of the said Court of Admiralty shall take judicial Notice of the Seal or Signature, as the Case may be, of any such Judge, Court, Commissioner, Notary Public, Person, Consul or Vice-Consul attached, appended, or subscribed to any such Answers, Examinations, Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations, or the Documents to be used in the said Court.

Answers, Affidavits, &c., how to be sworn and taken out of Ireland. 17 & 18 Vict. c. 78. s. 8.

63. All Persons swearing, declaring, affirming, or attesting before any Person authorized by this Act to administer Oaths, and take Declarations, Affirmations, and Attestations, shall be liable to all such Penalties, Punishments, and Consequences for any wilful and corrupt false swearing, declaring, affirming, or attesting contained

Penalties for false swearing. 17 & 18 Vict. c. 78. s. 9.

tained therein, as if the Matter sworn, declared, affirmed, or attested before any Court or Person now by Law authorized to administer Oaths and take Declarations, Affirmations, and Attestations.

Penalty for forging Signature or Seal of Judge, &c. empowered to administer Oaths under this Act. 17 & 18 Vict. c. 78. s. 10.

64. If any Person shall forge the Signature or the official Seal of any such Judge, Commissioner, Court, Notary Public, Consul or Vice-Consul, or other Person lawfully authorized to administer Oaths and take Declarations, Affirmations, or Attestations under this Act, or shall tender in Evidence any Answers, Examination, Deposition on Oath, Declaration, Affirmation, Attestation, or other judicial or official Document with a false or counterfeit Signature or Seal of any such Commissioner, Judge, Court, Notary Public, Consul or Vice-Consul, or other Person authorized as aforesaid attached or appended thereto, knowing the same Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under an Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty, intituled "An "Act to facilitate the Admission in Evidence of certain official and "other Documents."

Power of Judge to issue Commissions as heretofore, to administer Oaths, &c. 17 & 18 Vict. c. 78. s. 12.

65. Nothing herein contained shall abridge or lessen the Power of the Judge of the said Court of Admiralty, as it now exists, to issue Commissions as heretofore, and to appoint fit Persons to administer Oaths, take Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations, and generally to execute any Commissions, nor shall affect in any Manner the Power of the Judge to administer Oaths, and take Affidavits, Depositions on Oath, Declarations, Affirmations, and Attestations, as heretofore, in or relating to any Cause in the said Court.

3.—*Issues and New Trials.*

Power to direct Issues 3 & 4 Vict. c. 65. s. 11.

66. In any contested Cause depending in the said Court of Admiralty the said Court shall have Power, if it shall think fit, to direct a Trial by Jury of any Issue or Issues on any Question or Questions of Fact arising in any such Cause, and the Substance and Form of such Issue or Issues shall be specified by the Judge at the Time of directing the same; and if the Parties differ in drawing such such Issue or Issues, it shall be referred to the Judge to settle the same, and such Trial shall be held before the Judge himself, or before some Judge of Assize at Nisi Prius, as to the Judge shall seem meet.

Costs of Issues in

67. The Costs of such Issues as the Judge shall under this Act direct shall be paid by such Party or Parties, Person or Persons, and

and be taxed by the Registrar of the said Court of Admiralty in such Manner as the said Judge shall direct, and Payment of such Costs shall be enforced in the same Manner as Costs between Party and Party may be enforced in other Proceedings in the said Court.

Discretion of Court. 3 & 4 Vict. c. 65. s. 12.

68. The said Court of Admiralty, upon Application to be made within *Three Calendar Months* after the Trial of any such Issue, by any Party concerned, may grant and direct One or more new Trials of any such Issue, and may order such new Trial to take place in the Manner herein-before directed with regard to the First Trial of such Issue, and may, by Order of the same Court, direct such Costs to be paid as to the said Court shall seem fit, upon any Application for a new Trial or upon any new Trial or Second or other new Trial, and may direct by whom, and to whom, and at what Times and in what Manner such Costs shall be paid.

Power to direct new Trials. 3 & 4 Vict. c. 65. s. 13.

69. The granting or refusing to grant an Issue or a new Trial of any such Issue may be Matter of Appeal to the Court of Appeal in Chancery in Ireland.

Granting or refusing new Trials, Mat- of Appeal. 3 & 4 Vict. c. 65. s. 14.

70. The Record of each such Issue and of the Verdict therein shall be transmitted by the proper Officer to the Registrar of the said Court of Admiralty; and the Verdict of the Jury upon any such Issue (unless the same shall be set aside) shall be conclusive upon the said Court and upon the Parties, and in all further Proceedings in the Cause in which such Fact is found the said Court shall assume such Fact to be as found by the Jury.

Record of the Issue to be lodged with the Registrar. 3 & 4 Vict. c. 65. s. 16.

71. Any Party in a Cause in the Court of Admiralty shall be at liberty to apply to the said Court for an Order for the Inspection by the Nautical Assessors or others appointed for the Trial of any Cause, or by the Party himself or his Witnesses, of any Ship or other Personal or Real Property the Inspection of which may be material to the Issue of the Cause, and the Court may make such Order in respect of the Costs arising thereout as to it shall seem fit.

Party in Court may apply for an Order for Inspection by Jurors. 24 Vict. c. 10. s. 18. See 17 & 18 Vict. c. 105. s. 58.

72. Any Party in a Cause in the Court of Admiralty may call on any other Party in the Cause by Notice in Writing to admit any Document, saving all just Exceptions; and in case of Refusal or Neglect so to admit same the Costs of proving the Document shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless at the Trial the Judge shall certify that the Refusal to admit was reasonable.

Admission of Documents. 24 Vict. c. 10. s. 19.

4.—Other Branches of Practice and Procedure.

Power of Court, when personal Service of Citation has not been effected, to order Parties to proceed. 22 Vict. c. 10. s. 20.

73. Whenever it shall be made to appear to the Judge that reasonable Efforts have been made to effect personal Service of any Citation, Monition, or other Process issued under Seal of the said Court of Admiralty, and either that the same has come to the Knowledge of the Party thereby cited or monished, or that he wilfully evades Service of the same and has not appeared thereto, the said Judge may order that the Party on whose Behalf the Citation, Monition, or other Process was issued be at liberty to proceed as if personal Service had been effected, subject to such Conditions as to the Judge may seem fit, and all Proceedings thereon shall be as effectual as if personal Service of such Citation, Monition, or other Process had been effected.

As to Services out of Ireland. 24 Vict. c. 10. s. 21.

74. The Service in any Part of the United Kingdom of any Writ of Subpœna ad testificandum or Subpœna duces tecum, issued under Seal of the Court of Admiralty, shall be as effectual as if the same had been served in Ireland.

Decrees and Orders of Court of Admiralty to have Effect of Judgments at Common Law. 24 Vict. c. 10. s. 15.

75. All Decrees and Orders of the Court of Admiralty, whereby any Sum of Money, or any Costs, Charges, or Expenses, shall be payable to any Person, shall have the same Effect as Judgments in the Superior Courts of Common Law; and the Persons to whom any such Monies, or Costs, Charges, or Expenses shall be payable, shall be deemed Judgment Creditors, and all Powers of enforcing Judgments possessed by the Superior Courts of Common Law or any Judge thereof, with respect to Matters depending in the same Courts, as well against the Ships and Goods arrested as against the Person of the Judgment Debtor, shall be possessed by the said Court of Admiralty with respect to Causes therein depending; and all Remedies at Common Law possessed by Judgment Creditors shall be in like Manner possessed by Persons to whom any Monies, Costs, Charges, or Expenses are by such Orders or Decrees of the said Court of Admiralty directed to be paid.

As to Claims to Goods taken in Execution. 24 Vict. c. 10. s. 16.

76. If any Claim shall be made to any Goods or Chattels taken in Execution under any Process of the Court of Admiralty, or in respect of the Seizure thereof, or any Act or Matter connected therewith, or in respect of the Proceeds or Value of any such Goods or Chattels by any Landlord for Rent, or by any Person not being the Party against whom the Process has issued, the Registrar of the said Court may, upon Application of the Officer charged with the Execution of the Process, whether before or after any Action brought against such Officer, issue a Summons calling before the said Court both the Party issuing such Process and the Party making the Claim;

Claim; and thereupon any Action which shall have been brought in any of Her Majesty's Superior Courts of Record, or in any local or inferior Court, in respect of such Claim, Seizure, Act, or Matter as aforesaid, shall be stayed, and the Court in which such Action shall have been brought, or any Judge thereof, on Proof of the Issue of such Summons, and that the Goods and Chattels were so taken in Execution, may order the Party bringing the Action to pay the Costs of all Proceedings had upon the Action after Issue of the Summons out of the said Court of Admiralty, and the Judge of the said Court of Admiralty shall adjudicate upon the Claim, and make such Order between the Parties in respect thereof, and of the Costs of the Proceedings, as to him shall seem fit; and such Order shall be enforced in like Manner as any Order made in any Suit brought in the said Court. Where any such Claim shall be made as aforesaid the Claimant may deposit with the Officer charged with the Execution of the Process either the Amount or Value of the Goods claimed, the Value to be fixed by Appraisement in case of Dispute, to be by the Officer paid into Court to abide the Decision of the Judge upon the Claim, or the Sum which the Officer shall be allowed to charge as Costs for keeping Possession of the Goods until such Decision can be obtained; and in default of the Claimant so doing the Officer may sell the Goods as if no such Claim had been made, and shall pay into Court the Proceeds of the Sale to abide the Decision of the Judge.

As to the Hearing of Causes and Cross Causes. 24 Vict. c. 10. s. 34.

77. The Court of Admiralty may, on the Application of the Defendant in any Cause of Damage, and on his instituting a cross Cause for the Damage sustained by him in respect of the same Collision, direct that the principal Cause and the cross Cause be heard at the same Time and upon the same Evidence; and if in the principal Cause the Ship of the Defendant has been arrested, or Security given by him to answer Judgment, and in the cross Cause the Ship of the Plaintiff in the principal Cause cannot be arrested, and Security has not been given to answer Judgment therein, the Court may, if it think fit, suspend the Proceedings in the principal Cause until Security has been given to answer Judgment in the cross Cause.

5.—Assessors.

List of Assessors.

78. General Orders may from Time to Time provide for the framing of Lists of Persons of mercantile or nautical Skill and Experience to act as Assessors in the High Court of Admiralty and in the local Courts, and for the Publication of the Lists, and for the Ascertainment of the Cases in which Assessors are to be summoned, and the Mode in which, in each Case, they are to be selected,

selected, and their Functions, and the Proceedings in the Cases in which they sit, and their Remuneration; and every Pesson for the Time being named in any such List shall give his Attendance according to general Orders.

PART IV. JURISDICTION OF LOCAL COURTS.

Admiralty Jurisdiction of local Courts.

79. The local Courts shall, in the Cases following, have all the like Civil and Maritime Jurisdiction (with all Powers and Authorities relative thereto) as for the Time being belongs to the Court of Admiralty (otherwise than by way of Appeal); that is to say,

(1.) Where the Amount or Value of the Money or Thing in dispute does not exceed *Two hundred Pounds:*

(2.) Where the Amount or Value of the Money or Thing in dispute exceeds *Two hundred Pounds*, but the Parties agree by a Memorandum signed by them, or by their Attorneys or Agents, that a local Court or Courts specified in the Memorandum shall have Jurisdiction:

(3.) Where this Act provides for the Retention or Prosecution of a Cause in a local Court:

A Cause in which Jurisdiction is by this Act given to the local Courts is in this Act referred to as an Admiralty Cause.

Local Court for Commencement of Cause.

80. Subject to General Orders, Proceedings in an Admiralty Cause in a local Court shall be commenced as follows:—

(1.) In the local Court within the Jurisdiction whereof the Ship or Goods to which the Cause relates is or are at the Commencement of the Proceedings:

(2.) If the foregoing Rule is not applicable, then in the local Court in the District whereof an Action should or might be commenced under the ordinary Jurisdiction of the Court:

(3.) In any Case in the local Court, or One of the local Courts, which the Parties by a Memorandum signed by them, or by their Attorneys or Agents, agree shall have Jurisdiction.

Transfer from local Court by Order of the Court of Admiralty.

81. The Court of Admiralty, on Motion by any Party to an Admiralty Cause pending in a local Court, may, if it thinks fit, (with or without Service and Hearing of a Summons to the other Party, as it thinks fit,) transfer the Cause to the Court of Admiralty, on such Terms (if any) as to Security for Costs or other Things as the Court thinks fit.

82. If

Transfer by Order of County Court.

82. If during the Progress of an Admiralty Cause in a local Court it appears to the Court that the Subject Matter exceeds the Limit in respect of Amount of the Admiralty Jurisdiction of the Court, the Validity of any Order or Decree theretofore made by the Court shall not be thereby affected, but (unless the Parties agree by a Memorandum signed by them or their Attorneys or Agents that the Court shall retain Jurisdiction) the Court shall, by Order, transfer the Cause to the Court of Admiralty, which Court may nevertheless order that the Cause shall be prosecuted in the local Court in wh ich it was commenced, and it shall be thereupon remitted to such local Court and proceeded with therein.

Transfer to other local Court or Court of Admiralty.

83. If during the Progress of an Admiralty Cause in a local Court it appears to the Court that the Cause could be more conveniently prosecuted in some other local Court or in the Court of Admiralty, the Court may, by Order, transfer it to such other local Court or to the Court of Admiralty (as the Case may be), and it shall be thereupon prosecuted accordingly.

Costs of Proceedings in Court of Admiralty.

84. If any Person takes Proceedings in the High Court of Admiralty which he might (without Agreement) have taken in a local Court, he shall not be entitled to receive Costs in the High Court of Admiralty in any Event unless the Judge shall otherwise direct, and shall be liable to be condemned in Costs, if the Judge shall so think fit.

Powers and Authorities of Judges of local Courts.

85. In an Admiralty Cause in a local Court the Judge of such Court shall (in addition to his other Powers and Authorities) have all the like Powers and Authorities as the Judge of the High Court of Admiralty.

Marshal, &c. to act for local Courts.

86. The Marshal of the Court of Admiralty shall be deemed an Officer of all and every the local Courts in Admiralty Causes pending in any of those Courts.

Scale of Costs in local Courts.

87. A Scale of Costs and Charges in Admiralty Causes in the local Courts shall be prescribed by General Orders.

Execution of Decrees, &c.

88. For the Execution of any Decree or Order of a local Court in an Admiralty Cause the Court may order, and the Clerk of the Peace on such Order may issue, and any Officer of the said Court may execute, any Writ or Warrant of Arrest, Possession, or Execution, or other Process.

Appointment of special Courts of Quarter Sessions for Admiralty Jurisdiction.

89. It shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland in Council, from Time to Time, by Order in Council, made at any Time after *the passing of this Act*, to declare that the Recorder of any Borough Court, or the Chairman of any Court of any Quarter Sessions therein, and not herein-before specified, shall have Jurisdiction in Admiralty Causes, which Recorder or Chairman shall have Jurisdiction accordingly, and to assign to each such Court as its District for Admiralty Causes any Part or Parts of any One or more District or Districts in which such Court shall (independently of this Act) have Jurisdiction, and in any such Case to prescribe the Places and Times at which local Courts for Admiralty Causes shall be holden.

Remuneration to Recorders of Cork and Belfast.

90. *The Recorders of the Boroughs of Cork and Belfast shall respectively be paid, as Remuneration for the additional Duty which they may respectively have to perform by virtue of this Act, such annual or other Sum as the Lord Lieutenant or other Chief Governor or Governors of Ireland, with the Consent of the Commissioners of Her Majesty's Treasury, shall think fit, out of Money provided by Parliament.*

Provision for Remuneration of other Recorders and Chairmen.

91. *When, under any such Order in Council as aforesaid, Jurisdiction in Admiralty Causes shall be given to any Recorder of a Borough or Chairman of a County, such Recorder or Chairman shall be paid as Remuneration such annual or other Sum as the Lord Lieutenant or other Chief Governors or Governor of Ireland, with the Consent of the Commissioners of Her Majesty's Treasury, shall think fit, out of Money provided by Parliament.*

Part V.—Appeals.

Appeal from County Court to Court of Admiralty.

92. An Appeal shall lie to the High Court of Admiralty from the final Decree, Order, or Decision of a local Court in an Admiralty Cause, and, by Permission of the Judge of the local Court, from any interlocutory Decree, Order, or Decision therein, subject to such Provisions respecting Notice of Appeal, Deposit or other Security for Costs, and other Matters, as General Orders shall direct.

Time for Appeal from County Court.

93. The Time for so appealing shall be limited to *Fourteen* Days from the Date of the Decree, Order, or Decision appealed from; and an Appeal shall not be allowed unless the Appeal is lodged in the Registry of the High Court of Admiralty within that Time, subject to this Provision,—that the Judge of the High Court of Admiralty may, if he think fit, allow an Appeal to be prosecuted notwithstanding that the Appeal has not been lodged within that Time.

94. Pro-

94. Provided, That such an Appeal shall not lie if before or after the Decree, Order, or Decision is made or given the Parties agree, by a Memorandum signed by them or by their Attorneys or Agents, that the Decree, Order, or Decision shall be final; and any such Agreement need not be stamped, except in respect of any Fee imposed by General Orders. Agreement not to appeal.

95. From and after the Commencement of this Act no Appeal shall be brought from the Court of Admiralty to Her Majesty's Delegates in the Court of Chancery in Ireland, commonly called the High Court of Delegates in Ireland. Appeal to the Court of Delegates abolished. 19 & 20 Vict. c. 92. s. 10.

96. Any Person considering himself aggrieved by any final or interlocutory Sentence, Decree, or Order of the Court of Admiralty may appeal therefrom to the Court of Appeal in Chancery in Ireland, and from thence to Her Majesty in Council: Provided nevertheless, that any such Appeal from the Court of Admiralty may be brought to Her Majesty in Council in the first instance without interposing any Appeal to the said Court of Appeal in Chancery; and provided always, that no Appeal from any interlocutory Order of the Court of Admiralty shall be made without Leave of the Court of Admiralty first obtained, but on the Hearing of an Appeal from any final Sentence or Decree all interlocutory Orders complained of shall be considered as under Appeal as well as the final Decree. Appeal given to Court of Appeal in Chancery and Privy Council. 20 & 21 Vict. c. 79. s. 45.

97. From and after the Commencement of this Act, save as to any Appeal that shall be then pending, all the Jurisdiction which is now possessed and exercised by the High Court of Delegates in Ireland, or which, but for the passing of this Act, would be possessed and exercised by that Court in respect of Appeals from the said Court of Admiralty, and all Powers and Authorities incident to such Jurisdiction, now exercised and performed by the said High Court of Delegates, shall, subject to the Provisions of this Act, be exercised and performed by the said Court of Appeal in Chancery in relation to Appeals under this Act. Powers and Jurisdiction of the Court of Appeal. 19 & 20 Vict. c. 93. s. 8.

98. The Lord Chancellor and Lord Justice of Appeal in Ireland for the Time being may from Time to Time make, rescind, and vary General Orders for regulating the Form and Mode of Procedure on Appeals from the Court of Admiralty to the said Court of Appeal in Chancery, and for regulating the Costs, Fees, and Allowances to be paid or allowed to Solicitors or other Persons respecting such Appeals; and such Orders shall take effect at such Times as may be therein specified, or in default of such Specification from the Time of making thereof. Power to the Court of Appeal in Chancery to make Rules. 19 & 20 Vict. c. 92. s. 24.

Power to the Court of Appeal in Chancery to call in Nautical Assessors.

99. The said Court of Appeal in Chancery shall, on the Hearing of any Appeal from the Court of Admiralty, have Power to call to its Assistance One or more Nautical Assessors, to be selected by the said Court of Appeal; and the Advice and Opinion of such Nautical Assessor or Assessors may be taken by the said Court in the same Manner, upon such Questions, and for such Objects as the Advice and Opinion of any Nautical Assessor now is or may be taken by the Judicial Committee of the Privy Council in Appeals brought from the High Court of Admiralty of England; and the said Court of Appeal in Chancery shall have Power to direct what Remuneration shall be paid to each such Assessor for his Attendance on the Hearing of any such Appeal, and such Remuneration shall be paid accordingly by such of the Parties to the Appeal as the said Court of Appeal shall in that Behalf direct.

Evidence in the Court of Appeal in Chancery may be taken vivâ voce or upon written Depositions. 3 & 4 W. 4. c. 41. s. 7.

100. In any Appeal which shall come before the said Court of Appeal in Chancery by virtue of this Act the said Court may examine Witnesses by Word of Mouth (and either before or after Examination by Deposition), or direct that the Depositions of any Witness shall be taken in Writing by the Registrar, or by such other Person or Persons and in such Manner as the said Court shall direct.

Court of Appeal in Chancery may order any particular Witness to be examined, and as to any particular Facts, and may remit the Cause for Re-hearing. 3 & 4 W. 4. c. 41. s. 8.

101. In any Appeal which shall come before the said Court of Appeal in Chancery by virtue of this Act the said Court may direct that such Witnesses shall be examined or re-examined, and as to such Facts, as to the said Court shall seem fit, notwithstanding any such Witness may not have been examined, or no Evidence may have been given on any such Facts in a previous Stage of the Matter, and may remit the Cause to the Court of Admiralty, and at the same Time direct that the said Court of Admiralty shall re-hear such Cause, in such Form, and either generally or upon certain Points only, and upon such Re-hearing take such additional Evidence, though before rejected, or reject such Evidence before admitted, as the Court of Appeal in Chancery shall direct; and further, on any such remitting or otherwise, the Court of Appeal in Chancery may direct One or more Issue or Issues to be tried in any Court in any of Her Majesty's Dominions abroad for any Purpose for which such Issue or Issues shall to the said Court of Appeal in Chancery seem proper.

Witnssses to be examined on Oath, and to be liable to Punish-

102. Every Witness who shall be so examined in pursuance of this Act shall give his or her Evidence upon Oath, or, in Cases in which an Affirmation is allowed by Law to be substituted for an Oath, upon solemn Affirmation, which Oath and Affirmation respectively shall be administered

administered by the Court of Appeal in Chancery, and the Registrar thereof, or such other Person and Persons as the said Court shall direct; and every such Witness who shall wilfully swear or affirm falsely shall be deemed guilty of Perjury, and shall be punished accordingly.

ment for Perjury. 3 & 4 W. 4. c. 4. s. 9.

103. The said Court of Appeal in Chancery may direct One or more Issue or Issues to be tried in any Court of Common Law, and either before a Judge of Assize, or at the Sittings for the Trial of Issues in Dublin, and either by a Special or Common Jury, in like Manner and for the same Purpose as is now done by the High Court of Chancery of Ireland.

Court of Appeal in Chancery may direct an Issue to try any Fact. 3 & 4 W. 4. c. 41. s. 10.

104. It shall be in the Discretion of the said Court of Appeal in Chancery to direct that on the Trial of any Issue directed by it as aforesaid the Depositions already taken of any Witness who shall have died, or who shall be incapable to give oral Testimony, shall be received in Evidence; and further, that such Deeds, Evidences, and Writings shall be produced, and that such Facts shall be admitted, as to the said Court of Appeal in Chancery shall seem fit.

Court of Appeal in Chancery may direct Depositions to be read at Trial of the Issue. 3 & 4 W. 4. c. 41. s. 11.

105. The said Court of Appeal in Chancery may make such and the like Orders respecting the Admission of Persons, whether Parties or others, to be examined as Witnesses upon the Trial of any such Issue directed by it as aforesaid, as the Lord Chancellor or the Court of Chancery of Ireland has been used to make respecting the Admission of Witnesses upon the Trial of Issues directed by the Lord Chancellor or the Court of Chancery in Ireland.

May make such Orders as to Admission of Evidence as are made by Court of Chancery. 3 & 4 W. 4. c. 41. s. 12.

106. The said Court of Appeal in Chancery may direct One or more new Trial or Trials of any Issue, either generally or upon certain Points only; and in case any Witness examined at a former Trial of the same Issue shall have died, or have become incapable to repeat his Testimony, the said Court of Appeal in Chancery may direct that parol Evidence of the Testimony of such Witness shall be received.

And may direct new Trials of Issues. 3 & 4 W. 4. c. 41. s. 13.

107. All the Powers and Provisions contained in the Thirteenth of George the Third, Chapter Sixty-three, and First of William the Fourth, Chapter Twenty-two, for the Examination of Witnesses, shall, with reference to Cases of Appeal from the said Court of Admiralty, extend to and be exercised by the said Court of Appeal in Chancery, as if that Court had been therein named as One of His Majesty's Courts of Law at Westminster.

Powers, &c. of 13 G. 3. c. 63. and 1 W. 4. c. 22. to Examination of Witnesses extended to Court of Appeal in Chancery. 3 & 4 W. 4. c. 41. s. 14.

 108. The

Costs to be in the Discretion of Court of Appeal in Chancery. 3 & 4 W. 4. c. 41. s. 15.

108. The Costs incurred in the Prosecution of any Appeal preferred to the said Court of Appeal in Chancery, under the Provisions of this Act, and of such Issues as the same Court shall under this Act direct, shall be paid by such Party or Parties, Person or Persons, and be taxed by the Registrar, or such other Person or Persons to be appointed by the same Court, and in such Manner as the said Court shall direct.

Attendance of Witnesses and Production of Papers may be enforced by Supœna. 3 & 4 W. 4. c. 41. s. 19.

109. The Court of Appeal in Chancery may require the Attendance of any Witnesses, and the Production of any Deeds, Evidences, or Writings, by Writ, to be issued by the said Court, in such and the same Form, or as nearly thereto as may be, as that in which a Writ of Subpœna ad testificandum or of Subpœna duces tecum is now issued by Her Majesty's Court of Queen's Bench at Dublin; and every Person disobeying any such Writ so to be issued by the said Court of Appeal in Chancery shall be considered as in Contempt of the same Court, and shall also be liable to such and the same Penalties and Consequences as if such Writ had issued out of the said Court of Queen's Bench, and may be sued for such Penalties in the same Court.

The Privy Council empowered to determine Appeals under this Act. 3 & 4 Vict. c. 65. s. 17.

110. All the Provisions contained in the several Acts for the Time being in force relating to the Appellate Jurisdiction of Her Majesty's Privy Council in England, and the Administration of Justice therein, shall, so far as the same shall be applicable and consistent with the Provisions of this Act, be deemed to extend to Appeals preferred to Her Majesty in Council by virtue of the Provisions of this Act; and the Proceedings on all such Appeals shall, so far as practicable, and consistent with the Provisions of this Act, be proceeded with in the same Manner as Appeals from the High Court of Admiralty of England.

Bail given in the Court of Admiralty good in the Court of Appeal. 24 Vict. c.10. ss. 32, 33.

111. In any Cause in the said Court of Admiralty Bail may be taken to answer the Judgment as well of the said Court as of the Court of Appeal, and the said Court of Admiralty may withhold the Release of any Property under its Arrest until such Bail has been given; and in any Appeal from any Decree or Order of the Court of Admiralty, or of the said Court of Appeal in Chancery in any Appeal thereto, preferred by virtue of this Act, the Court to which such Appeal shall be brought may make and enforce its Order against the Surety or Sureties who may have signed any such Bail Bond, in the same Manner as if the Bail had been given in the Court of Appeal.

Certified Notes of Evidence

112. In any Appeal preferred by virtue of this Act the Notes of Evidence taken, as herein-before provided, by or under the Direction of

of the Judge of the Court of Admiralty, shall be certified by the Judge to the Court to which such Appeal is preferred, and shall be admitted to prove the oral Evidence given in the Court of Admiralty; and no Evidence shall be admitted on such Appeal to contradict the Notes of Evidence so taken and certified as aforesaid: Provided always, that nothing herein contained shall enure to prevent the Court of Appeal in Chancery or the Judicial Committee of the Privy Council from directing Witnesses to be examined and re-examined upon such Facts as to the said Court of Appeal in Chancery or the Judicial Committee shall seem fit.

may be admitted on Appeal. 3 & 4 Vict. c. 65. s. 17.

113. In any Appeal preferred by virtue of this Act from the said Court of Appeal in Chancery, the Notes of Evidence (if any) taken by or under the Direction of that Court shall be certified by the Lord Chancellor to the said Judicial Committee of the Privy Council, and no Evidence shall be admitted on such Appeal to contradict the Notes of Evidence so taken and certified as last aforesaid; but nothing herein contained shall enure to prevent the said Judicial Committee from directing Witnesses to be examined and re-examined upon such Facts as to the said Judicial Committee shall seem fit.

Notes of Evidence on Appeal to Court of Appeal in Chancery to be certified to the Privy Council.

114. An Appeal shall lie from a Decree, Order, or Decision of the High Court of Admiralty made or given on Appeal from a local Court, in like Cases and in like Manner as Appeals lie from the High Court of Admiralty in Causes originally instituted therein.

Appeal from an Order, &c. of the Court made on an Appeal to it.

115. Where in an Appeal under this Act the Appellant is unsuccessful, he shall pay the Costs of the Appeal, unless the Appellate Court shall otherwise direct.

Costs of Appeal.

116. The Time for appealing from any Decree or Order of the Court of Admiralty in any Cause instituted after the *passing of this Act* (under this Act or otherwise) shall be limited to *Two Months* from the Date of the Decree or Order appealed from, and an Appeal shall not be allowed unless the Petition of Appeal is lodged in the Registry of the Court of Admiralty and the Court of Appeal within that Time; subject to the Provision, that it shall be lawful for the Court of Appeal to which such Appeal shall be made to allow, under special Circumstances, the Appeal to be prosecuted notwithstanding that the Petition of Appeal has not been lodged within that Time.

Limit of Time for all Appeals from Court of Admiralty.

PART VI.—STAMPS SUBSTITUTED INSTEAD OF FEES.

Lord Chancellor may, with Consent of the Treasury, vary, alter, or abolish Fees. 17 & 18 Vict. c. 78. s. 14.

117. *The Lord Chancellor, with the Consent of the Commissioners of Her Majesty's Treasury, may by Order from Time to Time vary, alter, or abolish all or any of the Fees payable in relation to Proceedings in the Court of Admiralty, and may substitute One or more Fee or Fees in lieu thereof.*

From Commencement of Act, Judge, Registrar, &c. not to receive Fees on their own Account. 3 & 4 Vict. c. 66. s. 18.

118. From and after the Commencement of this Act, no Officer of the said Court of Admiralty shall be entitled to or take for his own Use or Benefit, directly or indirectly, any Fee or Emolument whatsoever, save the Salary to which he shall be entitled by virtue of this Act.

From Commencement of Act Fees to be collected by Stamps.

119. *From and after the Commencement of this Act, the Fees payable in relation to Proceedings in the Court of Admiralty shall not be received in Money, but shall be collected by means of Stamps.*

Such Fees to be Stamp Duties. 24 & 25 Vict. c. 91. s. 28.

120. *The Fees to be collected by means of Stamps under this Act shall be deemed Stamp Duties, and shall be under the Management of the Commissioners of Inland Revenue, and the Money received for such Stamps shall, under the Direction of the Commissioners of Her Majesty's Treasury, be carried into and shall form Part of the Consolidated Fund.*

Stamps to be impressed or adhesive, as the Treasury shall direct

121. *The Stamps to be used under this Act shall be impressed or adhesive, as the Commissioners of Her Majesty's Treasury shall from Time to Time direct.*

The Treasury, with Concurrence of Judge, may make Rules regulating the Use of Stamps and Cancellation of adhesive Stamps.

122. *The Commissioners of Her Majesty's Treasury, with the Concurrence of the Judge of the Court of Admiralty, may from Time to Time make such Rules as may seem fit for regulating the Use of Stamps under this Act, and particularly for prescribing the Application thereof to Documents from Time to Time in use or required to be used for the Purposes of such Stamps, and for ensuring the proper Cancellation of adhesive Stamps.*

No Document to be received or used unless stamped. 17 & 18 Vict. c. 78. s. 20.

123. *No Document which by any Order as aforesaid ought to have had a Stamp impressed thereon or affixed thereto shall be received or filed or be used in relation to any Proceeding in the Court of Admiralty, or be of any Validity for any Purpose whatsoever, unless or until the same shall have a Stamp impressed thereon or affixed thereto in the Manner directed by such Order: Provided always, that if at any Time it shall appear that any such Document which ought*

ought to have had a Stamp impressed thereon or affixed thereto has through Mistake or Inadvertence been received or filed or used without having such Stamp impressed thereon or affixed thereto, the Judge may, if he shall think fit, order that a Stamp not exceeding in Value Four Times the Amount of such original Stamp shall be impressed thereon or affixed thereto, and thereupon, when the proper Stamp shall, in compliance with such Order, have been impressed on such Document or affixed thereto, such Document and every Proceeding in reference thereto shall be as valid and effectual as if such Stamp had been impressed thereon or affixed thereto in the first instance.

Officers guilty of Fraud or wiful Neglect in relation to Stamps liable to be be dismissed. 17 & 18 Vict. c. 78. s. 21.

124. If any Officer of the Court of Admiralty or other Person shall do or commit or connive at any fraudulent Act or Practice in relation to any Stamp to be used under the Provisions of this Act, or to any Fee or Sum of Money to be collected or which ought to be collected by means of any such Stamp, or if any such Officer or Person shall be guilty of any wilful Act, Neglect, or Omission in relation to any such Stamp or Fee as aforesaid, whereby any Fee or Sum of Money which ought to be collected shall be lost or the Payment thereof evaded, any such Offieer or Person so offending may be dismissed from his Office or Employment by the Judge of the said Court of Admiralty.

Compensation to the Registrar of the Court of Delegates.

125. *And whereas Joseph Hamilton, Esquire, the present Registrar of Appeals and Provocations Spiritual in Ireland, will suffer Loss in his said Office by the Abolition of Appeals from the Court of Admiralty to the High Court of Delegates in Ireland, and the said Joseph Hamilton has held his said Office for upwards of Forty-three Years: There shall be paid to the said Joseph Hamilton by way of Compensation such Annuity as the Commissioners of Her Majesty's Treasury may deem just and proper, not exceeding the Average of the net Profits of his said Office from Admiralty Appeals on an Average for the Five Years ending Thirty-first December One thousand eight hundred and sixty-five, to commence from the Day when this Act shall come into operation, and to continue during his Life.*

Compensation to Proctors. 20 & 21 Vict. c. 79. s. 112.

126. *Whereas the Number of Persons entitled to practise as Proctors of the said Court of Admiralty does not exceed Six, and the Fees or Emoluments of the said Proctors may be damaged by the Abolition of the exclusive Rights and Privileges which they have hitherto enjoyed as such Proctors in the said Court: Be it enacted, That the Commissioners of Her Majesty's Treasury, by Examination on Oath or otherwise, which Oath they are hereby authorized to administer, may inquire into, and may, by the Production of such*

Evidence as they shall think fit to require, ascertain and absolutely determine the net annual Amount of the Profits arising from the Transaction of Business by Proctors on Matters and Causes in such Admiralty Court on an Average of Five Years immediately preceding the Commencenent of this Act, and shall award to each and every such Proctor a Sum of Money or annual Payment during the Term of his natural Life, of such Amount as shall be equal in Value to One Half of the net Profits derived by such Proctor in respect of Matters and Causes in the said Court of Admiralty, upon the said Average of Five Years immediately preceding the Commencement of this Act.

Compensation to Proctors in Partnership.

127. *And whereas divers Proctors practising in the said Court of Admiralty now are or may at the Commencement of this Act be associated together in Partnership: Be it therefore enacted, That in all such Cases the Commissioners of Her Majesty's Treasury shall inquire into and ascertain the Terms or Conditions of such Partnerships, and shall absolutely determine and award Compensation in respect thereof, as herein-before provided, to each of such Partnerships, in like Manner as if all the Emoluments thereof had been derived by One Individual, and shall apportion such Compensation among the Members of each such Partnership, with or without Benefit of Survivorship, regard being had to the existing Terms and Conditions of the same.*

Retiring Pensions and Compensations to be paid out of Monies provided by Parliament.

128. *Except as is herein-before expressly provided, the several Retiring Pensions and Compensations granted by this Act shall be paid by the Commissioners of Her Majesty's Treasury out of such Funds as may be provided by Parliament for that Purpose.*

Extent of Act.

129. This Act shall apply to Ireland only.

Admiralty Court (Ireland).

A

BILL

To extend the Jurisdiction, alter and amend the Procedure and Practice, and to regulate the Establishment of the Court of Admiralty in Ireland.

(*Prepared and brought in by Mr. Attorney-General for Ireland and Lord Naas.*)

Ordered, by The House of Commons, *to be Printed* 26 *June* 1867.

[Bill 209.]

Under 4 *oz.*

Admiralty Jurisdiction Bill.

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9. Admiralty Jurisdiction of County Courts.
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28. Appeal from County Court to Court of Admiralty.
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A

BILL

FOR

Extending and regulating the Jurisdiction of the High Court of Admiralty, and for conferring Admiralty Jurisdiction on the County Courts.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Preliminary.

Short Title.

1. This Act may be cited as The Admiralty Jurisdiction Act, 1867.

Commencement of Act.

2. Except as in this Act expressly otherwise provided, this Act shall commence from and immediately after the *Thirtieth* Day of *September* One thousand eight hundred and sixty-seven.

Interpretation.

3. In this Act—

The Term "Ship" includes any Vessel used in Navigation not exclusively propelled by Oars :

The Term "Cause" includes Suit, Action, or other Proceeding :

The Term "County Court" means a County Court held by virtue of the Act of the Session of the Ninth and Tenth Years of Her Majesty's Reign (Chapter Ninety-five) "for the more easy "Recovery of small Debts and Demands in England."

9 & 10 Vict. c. 95.

Jurisdiction of Court of Admiralty.

Repeal of Parts of 3 & 4 Vict. c. 65. and 24 & 25 Vict. c. 10.

4. The following Portions of the Act of the Session of the Third and Fourth Years of Her Majesty's Reign (Chapter Sixty-five), "to improve the Practice and extend the Jurisdiction of the High "Court of Admiralty of England," and of The Admiralty Court Act, 1861, shall be repealed, namely,—

So much of Section Four of the first-mentioned Act as restricts the Jurisdiction thereby conferred to the Case of such Questions as are therein described arising in any such Cause as is therein specified:

So much of Sections Four and Thirteen of the secondly-mentioned Act as restricts the Jurisdiction thereby conferred to the Case of a Ship or Proceeds being under Arrest:

So much of Sections Five and Six of the same Act as restricts the Jurisdiction thereby conferred to the Case of the Owner or Part Owner of a Ship not being domiciled in England:

So much of Sections Five, Six, and Ten of the same Act as relates to the Cases of Plaintiffs not recovering such Amounts as are therein mentioned in such Causes as are therein specified.

Extension of Jurisdiction of Court of Admiralty over Ships and Goods.

5. The High Court of Admiralty of England shall have Jurisdiction over any Claim arising on any Charter-party, Bill of Lading, or other Contract respecting the Use or Hire of any Ship, or the Carriage of Goods therein, as between the immediate Parties to such Contract, or as between the Owner of the Ship and any Person claiming through or under any such Party, and over any Claim concerning any Ship or Goods relating to Freight, Insurance, Demurrage, Average (General or Particular), or short Delivery of or Damage to Cargo, and generally over any Claim of a Civil and Maritime Nature relating to any Ship, or to the Goods carried therein.

Proceedings in rem, &c.

6. The Jurisdiction conferred by this Act may be exercised either by Proceedings in rem, or by Proceedings in personam.

Limitation of Maritime Liens.

7. A Maritime Lien shall remain in force as next herein-after specified; that is to say,—

If after the Time when the Lien first accrues the Ship has been in any Port or Ports in England for *One Month*, and the Person

Person entitled to enforce the Lien has been in England for the same *Month*, the Lien shall remain in force until the Expiration of *Three Months* from the End of that *Month*, and no longer:

If after the Time when the Lien first accrues the Ship has been in any Port or Ports in England for *Two Months*, but the Person entitled to enforce the Lien has not been in England for *One Month* within that Period of *Two Months*, the Lien shall remain in force until the Expiration of *One Year* from the Time when it first accrued, or until the Expiration of *Three Months* from the End of that Period of *Two Months*, whichever last happens, and no longer:

In other Cases the Lien shall remain in force until the Expiration of *Three Years* from the Time when it first accrued, and no longer, unless the Person entitled to enforce the Lien after the Expiration of that Time shows to the Satisfaction of the Court that he has proceeded with reasonable Diligence.

Restriction on Arrest of Property.

8. The Party at whose Instance any Property is arrested under a Warrant of the High Court of Admiralty shall be liable to be condemned in all Costs and Expenses occasioned thereby, and in Damages for the Detention of the Property, unless he shows to the Satisfaction of the Court that he could not without such Arrest have obtained Bail or other Security for the Sum in which the Cause is instituted, or that he had otherwise good and sufficient Reason for having caused the Issue and Execution of the Warrant of Arrest.

Jurisdiction of County Courts.

Admiralty Jurisdiction of County Courts.

9. The County Courts shall, in the Cases following, have all the like Civil and Maritime Jurisdiction (with all Powers and Authorities relative thereto) as for the Time being belongs to the High Court of Admiralty of England (otherwise than by way of Appeal), that is to say,—

(1.) Where the Amount or Value of the Money or Thing in dispute does not exceed *Five hundred Pounds:*

(2.) Where the Amount or Value of the Money or Thing in dispute exceeds *Five hundred Pounds*, but the Parties agree by a Memorandum signed by them, or by their Attorneys or Agents, that a County Court or County Courts specified in the Memorandum shall have Jurisdiction:

(3.) Where this Act provides for the Retention or Prosecution of a Cause in a County Court.

A Cause in which Jurisdiction is by this Act given to the County Courts is in this Act referred to as an Admiralty Cause.

 10. Nothing

Exclusion of Prize Causes, &c.

10. Nothing in this Act shall confer on a County Court Jurisdiction in any Prize Cause, or in any other Matter within The Naval Prize Act, 1864, or in any Matter arising under any of the Acts for the Suppression of the Slave Trade.

Salvage Cases.

11. Salvage Cases in which County Courts have Jurisdiction shall be deemed Admiralty Causes within this Act.

County Court for Commencement of Cause.

12. Subject to General Orders, Proceedings in an Admiralty Cause in a County Court shall be commenced as follows:

(1.) In the County Court within the District whereof the Ship or Goods to which the Cause relates is or are at the Commencement of the Proceedings:

(2.) If the foregoing Rule is not applicable, then in the County Court in the District whereof a Summons should or might issue as the Commencement of an Action under the ordinary Jurisdiction of the Court:

(3.) In any Case, in the County Court, or One of the County Courts, which the Parties by a Memorandum signed by them or by their Attorneys or Agents agree shall have Jurisdiction.

Transfer from County Court by Order of Court of Admiralty.

13. The High Court of Admiralty, on Motion by any Party to an Admiralty Cause pending in a County Court, may, if it thinks fit, (with or without Service and Hearing of a Summons to the other Party, as it thinks fit,) transfer the Cause to the High Court of Admiralty on such Terms (if any) as to Security for Costs or other Things as the Court thinks fit.

Transfer by Order of County Court.

14. If during the Progress of an Admiralty Cause in a County Court it appears to the Court that the Subject Matter exceeds the Limit in respect of Amount of the Admiralty Jurisdiction of the Court, the Validity of any Order or Decree theretofore made by the Court shall not be thereby affected, but (unless the Parties agree by a Memorandum, signed by them or by their Attorneys or Agents, that the Court shall retain Jurisdiction,) the Court shall by Order transfer the Cause to the High Court of Admiralty, which Court may, nevertheless, order that the Cause shall be prosecuted in the County Court in which it was commenced, and it shall be prosecuted accordingly.

Transfer to other County Court or Court of Admiralty.

15. If during the Progress of an Admiralty Cause in a County Court it appears to the Court that the Cause could be more conveniently prosecuted in some other County Court or in the High Court of Admiralty, the Court may by Order transfer it to such other

other County Court or to the High Court of Admiralty (as the Case may be), and the Cause shall be prosecuted accordingly.

Costs of Proceedings in Court of Admiralty.

16. If any Person takes Proceedings in the High Court of Admiralty which he might (without Agreement) have taken in a County Court he shall not be entitled to receive Costs, even if successful, in the High Court of Admiralty, unless the Judge otherwise directs, and shall be liable to be condemned in Costs, if the Judge thinks fit.

Powers and Authorities of Judges and Officers of County Courts.

17. In an Admiralty Cause in a County Court the Judge shall (in addition to his other Powers and Authorities) have all the like Powers and Authorities as the Judge of the High Court of Admiralty, and the Registrar shall discharge Duties which an Officer of the High Court of Admiralty can discharge either by Direction of the Court or according to the Course of Practice thereof.

Marshal, &c. to act for County Courts.

18. The Marshal and Deputy Marshals of the High Court of Admiralty shall be deemed Officers of all and every of the County Courts in Admiralty Causes pending in any of those Courts.

Remuneration of Registrars.

19. The Registrars of the County Courts shall be remunerated for their Duties in Admiralty Causes by receiving for their own Use such Fees as General Orders direct.

Scale of Costs.

20. A Scale of Costs and Charges in Admiralty Causes in the County Courts shall be prescribed by General Orders.

Execution of Decrees, &c.

21. For the Execution of any Decree or Order of a County Court in an Admiralty Cause the Court may order, and the Registrar on such Order may seal and issue, and any Officer of the Court may execute, any Writ or Warrant of Arrest, Possession, or Execution, or other Process.

Registration of Decrees and Orders.

22. Such Decrees and Orders of County Courts in Admiralty Causes as General Orders direct shall be registered with the Registrar of County Court Judgments in London in such Manner as General Orders direct.

Appointment of Special County Courts for Admiralty Jurisdiction.

23. Notwithstanding anything in this Act, it shall be lawful for Her Majesty in Council, from Time to Time, by Order in Council made at any Time after the passing of this Act, to declare that the County Courts therein specified shall alone have Jurisdiction in Admiralty Causes (which Courts alone shall have such Jurisdiction accordingly), and to assign to each such Court, as its District for

Admiralty Causes, any Part or Parts of any One or more District or Districts of County Courts, and in any such Case to prescribe the Places and Times at which County Courts for Admiralty Causes shall be holden.

Provision for Deputy in Vacation.

24. Where, under any such Order in Council, the Judge of a County Court is required to hold Courts for Admiralty Causes in the Month of September, or in any other Month allowed by the Lord Chancellor as such Judge's Vacation Month, he may, with the Approval of the Lord Chancellor, (or where all the County Courts for Admiralty Causes holden by such Judge are within the Duchy of Lancaster, with the Approval of the Chancellor of the Duchy,) appoint a Deputy to hold such Courts in that Month, and that Deputy shall be paid as Remuneration, and for his Travelling Expenses, such Amount as the Commissioners of Her Majesty's Treasury think fit, *out of Money provided by Parliament.*

General Average.

Power to file General Average Agreement.

25. Where, after the Commencement of this Act, any Persons enter into an Agreement for a Reference for the Ascertainment and Adjustment of the Amount and Proportion of their several Losses and Expenses in respect of General Average, any Party to the Agreement may, at any Time after the same is entered into, file in the High Court of Admiralty or in any County Court having Admiralty Jurisdiction an attested Copy of the Agreement.

Jurisdiction over Average Agreements when filed.

26. On and after the filing of any such Agreement the Court in which it is filed shall have Jurisdiction to entertain any Application of any Party to the Agreement or of the Referee thereunder respecting the Execution of any of the Provisions of the Agreement, or respecting any of the Rights, Powers, Duties, or Liabilities of the Parties thereto or any of them; and on any such Application, as far as appears to the Court requisite for disposing of such Application, but not further or otherwise, the Court may proceed and direct and authorize Proceedings with respect to the issuing of Process and summoning and Examination of Witnesses, and in other respects, as if a Suit or Admiralty Cause had been regularly instituted in the Court, and may make such Orders concerning the Subject of the Application and the Costs of it as seem just; and every such Order shall have the Effect and Consequences of an Order of the Court in a Suit or Admiralty Cause regularly instituted.

Assessors.

Lists of Assessors.

27. General Orders may from Time to Time provide for the framing of Lists of Persons of mercantile or nautical Skill and Experience

Experience to act as Assessors in the High Court of Admiralty and in the County Courts, and for the Publication of the Lists, and for the Ascertainment of the Cases in which Assessors are to be summoned, and the Mode in which, in each Case, they are to be selected, and their Functions, and the Proceedings in the Cases in which they sit, and their Remuneration; and every Person for the Time being named in any such List shall give his Attendance according to General Orders.

Nothing in this Section shall affect the Course of Practice of the High Court of Admiralty in relation to the Elder Brethren of the Trinity House Corporation.

Appeal.

Appeal from County Court to Court of Admiralty.

28. An Appeal shall lie to the High Court of Admiralty from the final Decree, Order, or Decision of a County Court in an Admiralty Cause, and, by Permission of the Judge of the County Court, from any interlocutory Decree, Order, or Decision therein, subject to such Provisions respecting Notice of Appeal, Deposit or other Security for Costs, and other Matters, as General Orders direct.

Time for Appeal from County Court.

29. The Time for so appealing shall be limited to *Fourteen* Days from the Date of the Decree, Order, or Decision appealed from; and an Appeal shall not be allowed unless the Appeal is lodged in the Registry of the High Court of Admiralty within that Time, subject to this Provision,—that the Judge of the High Court of Admiralty may, if he thinks fit, allow an Appeal to be prosecuted notwithstanding that the Appeal has not been lodged within that Time.

Agreement not to appeal.

30. Provided, That such an Appeal shall not lie if before or after the Decree, Order, or Decision is made or given the Parties agree, by a Memorandum signed by them or by their Attorneys or Agents, that the Decree, Order, or Decision shall be final; and any such Agreement need not be stamped except in respect of any Fee imposed by General Orders.

Appeal to the Queen in Council.

31. An Appeal shall lie from a Decree, Order, or Decision of the High Court of Admiralty made or given on Appeal from a County Court in like Cases and in like Manner as Appeals lie from the High Court of Admiralty in Causes originally instituted therein.

Costs of Appeal.

32. Where, in an Appeal under this Act, the Appellant is unsuccessful, he shall pay the Costs of the Appeal, unless the Appellate Court otherwise directs.

Limit of Time for all Appeals from Court of Admiralty.

33. The Time for appealing from any Decree or Order of the High Court of Admiralty in any Civil Cause instituted after the passing of this Act (under this Act or otherwise) shall be limited to *Three* Months from the Date of the Decree or Order appealed from; and an Appeal shall not be allowed unless the Petition of Appeal is lodged in the Registry of the High Court of Admiralty and Appeals within that Time, subject to this Provision,—that it shall be lawful for Her Majesty in Council, on the Report and Recommendation of the Judicial Committee of the Privy Council, to allow an Appeal to be prosecuted notwithstanding that the Petition of Appeal has not been lodged within that Time.

Construction of Act.

County Court Acts applied.

34. This Act, as far as it relates to County Courts, shall be read as One Act with the said Act of the Session of the Ninth and Tenth Years of Her Majesty and the Acts amending or extending the same.

City Court.

Provision respecting City Small Debts Court.

35. The Court held under The London (City) Small Debts Extension Act, 1852, shall be deemed a County Court within the Meaning of this Act; and the Judge and Officers thereof shall, with respect to Admiralty Causes, conform to General Orders under this Act; and Fees received in Admiralty Causes in that Court shall be paid into and shall form Part of the General Fund thereof.

Registrar, &c. of Court of Admiralty.

Jurisdiction of Registrar, &c. of Court of Admiralty.

36. The Registrar and Assistant Registrars of the High Court of Admiralty shall have all such Jurisdiction, Powers, and Authorities as are by this Act conferred on the Judges of the County Courts, and shall exercise and discharge the same subject and according to General Orders.

General Orders.

Practice, &c. to be regulated by General Orders.

37. General Orders shall be from Time to Time made under this Act for the Purposes in this Act directed, and for regulating the Practice and Procedure of the High Court of Admiralty and of the County Courts, and the Forms of Writs, Warrants, Summonses, Processes, and Proceedings therein, or issuing therefrom, and the Duties of the Judges and Officers thereof, and the Fees to be taken therein.

Authority for making General Orders.

38. General Orders under this Act shall be made by the Lord Chancellor, with the Advice and Assistance of the Judge of the High Court of Admiralty, and, as far as they relate to Fees or to Receipt

Receipt and Expenditure of and accounting for Money, with the Approval of the Commissioners of Her Majesty's Treasury; and any General Orders under this Act may be made at any Time after the passing of this Act.

Admiralty Jurisdiction.

A

BILL

For extending and regulating the Jurisdiction of the High Court of Admiralty, and for conferring Admiralty Jurisdiction on the County Courts.

(*Prepared and brought in by Sir Stafford Northcote, Mr. Attorney General, and Mr. Cave.*)

Ordered, by The House of Commons, *to be Printed*, 18 *February* 1867.

[Bill 28.]

Under 2 *oz.*

A

B I L L

TO

Provide for the better Education of Children employed in Agriculture.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same :

Children under Thirteen not to be employed in Agriculture, except on Production of Certificate of School Attendance.

1. That no Child whose Age is less than *Thirteen Years* shall be permitted to be employed in Agriculture unless a Certificate can be produced which shall certify that the Child has attended School on alternate Days.

Certificate to be handed to Employer of Child at End of each Month.

2. The Certificate which is provided for in Section One shall be handed to the Employer of the Child at the End of each Calendar Month, and the Certificate being duly signed by the Master or Mistress of the School which the Child has attended shall attest that the Child has attended School on each alternate Weekday, unless his or her Attendance has been prevented by Illness.

Power to Magistrates to suspend

3. The Magistrates of each Petty Sessional District shall have the Power to issue an Order which shall suspend the Operation

Operation of Section One.

of Section One for a Period in each Year not exceeding *Two Calendar* Months during which the Harvest and other important agricultural Operations may happen to be carried on.

Certificate not to be regarded as valid where Inspectors have reported School to be in an unsatisfactory State.

4. A Certificate of School Attendance in accordance with the Provisions of this Act shall not be regarded as valid or sufficient if the School at which the Attendance shall have taken place shall be reported upon by One of Her Majesty's Inspectors of Schools as being in a State so unsatisfactory as not to provide fairly good elementary Education.

Relief from School Attendance whereChild's Home Three Miles from School.

5. The Magistrates sitting in Petty Sessions shall have the Power to relieve any Child employed in Agriculture from attending School on alternate Days if it is proved that the Child's Home is situated at a Distance exceeding *Three Miles* from any School.

Provision for imposing Rate where no sufficient School.

6. If a Parish with a Population exceeding *Three hundred* is unprovided with a School, or if the School situated in this Parish should be reported upon by One of Her Majesty's Inspectors of Schools to be in a Condition so unsatisfactory that the Certificates of Attendance at this School cannot be received as valid or sufficient, the Magistrates sitting in Petty Sessions in the District in which this Parish is situated shall have the Power to levy a Rate either for the building of a School-house or for the due Maintenance of a School; the Rate which is so levied shall be collected from each Owner and Occupier of Property in the Parish in proportion to the Amount to which he or she may be assessed in support of the Poor.

Appeal in case Two Thirds of Ratepayers object to Rate.

7. If *Two Thirds* of the Ratepayers of any Parish should object to a Rate being levied according to Clause Six either on the Ground that the Rate is excessive in Amount, or that a School already existing in the Parish is sufficient for the Purposes of elementary Education, these Ratepayers should have the Power of appealing to the Privy Council against the Rate as levied, and when such an Appeal has been made the Privy Council should appoint an Assessor to inquire into the Grounds of the Appeal, and his Decision shall be regarded as final.

Penalty for employing Children contrary to Act.

8. If any Child is employed contrary to the Provisions of this Act, an Information may be laid against the Employer, and also against the Parent or Guardian of the Child, before the Magistrates sitting in Petty Sessions, and if the Information shall be proved to be true the Magistrates shall inflict a Fine on the Employer of the Child not exceeding *Ten Pounds* and not less than *Two Pounds*, and a Fine may also be imposed upon the Parent or Guardian of the

the Child not exceeding *One Pound* and not less than *Ten Shillings.*

Religious Instruction.

9. In any School which may be partly or wholly maintained by Rates levied according to Section Six, the Period in each Day during which Religious Instruction shall be given shall not exceed *Half an Hour*, and a Majority of the Ratepayers shall have the Power of determining the kind of Religious Instruction which shall be thus given, but the Parent or Guardian of any Child shall, upon Application to the Master or Mistress of the School, receive Permission for his Child to be absent during the Time that this Religious Instruction shall be given.

What to be deemed a Day's School Attendance.

10. A Child shall not be considered to have attended School One Day unless during that Day he or she has been in School for a Period of not less than *Five Hours.*

Agricultural Children's Education.

A

BILL

To provide for the better Education of Children employed in Agriculture.

(*Prepared and brought in by Mr. Fawcett, Mr. Arthur Peel, and Mr. Trevelyan.*)

Ordered, by The House of Commons, *to be Printed,* 15 *May* 1867.

[Bill 152.]

Under 1 *oz.*

A

B I L L

INTITULED

An Act for the Regulation of Agricultural Gangs.

[Note.—*The Clause printed in Red Ink is proposed to be inserted in Committee.*]

WHEREAS in certain Counties in England certain Persons known as Gangmasters hire Children, Young Persons, and Women, with a view to contracting with Farmers and others for the Execution, on their Lands, of various Kinds of Agricultural Work: And whereas it is expedient to make Regulations with respect to the Employment of Children, Young Persons, and Women by Gangmasters: Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. This Act may be cited for all Purposes as "The Agricultural Gangs Act, 1867." Short Title of Act.

2. This Act shall come into operation on the First of January One thousand eight hundred and sixty-eight. Commencement of Act.

General Definitions.

3. The following Words and Expressions shall in this Act have the Meanings hereby assigned to them, unless there is something in the Context inconsistent with such Meanings; that is to say,

"Child" shall mean a Child under the Age of Thirteen Years:

"Young Person" shall mean a Person of the Age of Thirteen Years and under the Age of Eighteen Years:

"Woman" shall mean a Female of the Age of Eighteen Years or upwards:

"Gangmaster" shall mean any Person, whether Male or Female, who hires Children, Young Persons, or Women, with a view to their being employed in Agricultural Labour on Lands not in his own Occupation; and, until the contrary is proved, any Children, Young Persons, or Women employed in Agricultural Labour on Lands not in the Occupation of the Person who hired them shall be deemed to have been hired with the aforesaid View:

"Agricultural Gang" shall mean a Body of Children, Young Persons, and Women, or any of them, under the Control of a Gangmaster.

Regulations as to Gangs.

4. The following Regulations shall be observed by every Gangmaster with respect to the Employment of Children, Young Persons, and Women:

(1.) No Child under the Age of Eight Years shall be employed in any Agricultural Gang:

(2.) No Females shall be employed in the same Agricultural Gang with Males:

(3.) No female shall be employed in any Gang under any Male Gangmaster unless a Female licensed to act as Gangmaster is also present with that Gang:

And any Gangmaster employing any Child, Young Person, or Woman in contravention of this Section, and any Occupier of Land on which such Employment takes place, unless he proves that it took place without his Knowledge, shall respectively be liable to a Penalty not exceeding Twenty Shillings for each Child, Young Person, or Woman so employed.

Gangmasters to be licensed.

5. No Person shall act as a Gangmaster unless he has obtained a Licence to act as such under this Act.

Any Person acting as a Gangmaster without a Licence under this Act shall incur a Penalty not exceeding Twenty Shillings for every Day during which he so acts.

Licence not to be granted to Keeper of Public House.

6. No Licence shall be granted to any Person who is licensed to sell Beer, Spirits, or any other exciseable Liquor.

7. Licences

7. Licences to Gangmasters shall be granted by the Justices in Petty Sessions, on due Proof to the Satisfaction of such Justices that the Applicant for a Licence is of good Character, and a fit Person to be entrusted with the Management of an Agricultural Gang. Licences to Gangmasters.

The Justices may annex to their Licence a Condition limiting, in such Manner as they think expedient, the Distances within which the Children employed by such Gangmaster are to be allowed to travel on Foot to their Work, and any Gangmaster violating the Condition so annexed to his Licence shall for each Offence be liable to a Penalty not exceeding Ten Shillings.

Any Person aggrieved by the Refusal of the Justices to grant him a Licence to act as Gangmaster may appeal to the next practicable Court of General or Quarter Sessions; and it shall be lawful for such Court, if they see Cause, to grant a Licence to the Applicant, which shall be of the same Validity as if it had been granted by the Justices in Petty Sessions.

8. Licences under this Act shall be in force for Six Months only, and may be renewed on similar Proof to that on which an original Licence is granted. Renewal of Licences.

CLAUSE A. Fees in respect of Licences.

There shall be charged in respect of each Grant or Renewal of Licence a Fee of One Shilling, and such Fee shall be accounted for and applied in manner in which the Fees ordinarily received by the Authority granting the Licence are applicable.

9. On any Conviction of a Gangmaster of any Offence against this Act, the Justices who convict him shall endorse on his Licence the Fact of such Conviction; and on any Conviction of such Gangmaster of a Second Offence against this Act the Justices may, in addition to any other Penalty, withhold his Licence for a Period not exceeding Three Months; and on any Conviction of any Gangmaster of a Third Offence against this Act the Justices may, in addition to any other Penalty, withhold his Licence for a Period not exceeding Two Years. Licence how affected by Conviction of Gangmaster.

And after a Fourth Conviction for an Offence against this Act, the Gangmaster shall be disqualified from holding or receiving a Licence under this Act.

10. All Penalties under this Act may be recovered summarily before Two or more Justices in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An "Act to facilitate the Performance of the Duties of Justices of the Recovery of Penalties.

" Peace out of Sessions within England and Wales with respect to " summary Convictions and Orders," or any Act amending the same.

Extent of Act.

11. This Act shall not apply to Scotland or Ireland.

Agricultural Gangs.

[H.L.]

A

B I L L

INTITULED

An Act for the Regulation of Agricultural Gangs.

(*Brought from the Lords* 8 *August* 1867.)

Ordered, by The House of Commons, *to be Printed,* 9 *August* 1867.

[Bill 310.] *Under* 1 *oz.*

A

B I L L

INTITULED

An Act to facilitate the Recovery of Arrears of Alimony in certain Cases under Decrees and Orders of the Provincial and Diocesan Courts in Ireland.

WHEREAS Difficulties have been found to exist in enforcing Decrees and Orders for Payment of Alimony in Causes pending in the Provincial and Diocesan Courts in Ireland, acting under the Provisions of the Ecclesiastical Courts and Registries Act, Ireland, 1864, in Cases where the Respondent or other the Person or Persons liable to pay the same cannot be served personally with such Decrees or Orders, or when a personal Demand of such Arrears cannot be made upon such Person or Persons, and it is expedient to make Provision to enable such Courts to enforce said Decrees and Orders without such personal Service or Demand in manner herein-after appearing: **Preamble.**

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. In every Case in which, either before or after the passing of this Act, any Decree or Order shall have been pronounced or made in any Cause or Matter pending before any such Provincial or Diocesan Court, **Where personal Service of Decree is unavailing,**

Court may make an Order for substituted Service.

Court, or in which such Provincial or Diocesan Court shall, under the said recited Act, have Jurisdiction, directing the Payment of an annual Sum by way of Alimony by any Person, or of any Sum of Money as and for the Arrears of Alimony theretofore decreed or ordered to be paid, and it shall be made to appear to the Satisfaction of the Court by Affidavit, upon Application of the Person entitled to such Payment, that all due Efforts have been made for the Purpose of effecting personal Service upon the Person liable to such Payment of such Decree or Order, or for the Purpose of personally demanding from such Person the Payment of any Sum or Sums due under such Decree or Order, and that notwithstanding all due Diligence such Efforts to effect personal Service or Demand have been unavailing, either by reason of the Absence of the Person so sought to be served, or from other Causes not within the Control of the Person entitled to the Benefit of such Order or Decree, it shall be lawful for the Court to make an Order for the Substitution of the Service of such Decree or Order, or of a Demand of the Payment of such Sum or Sums of Money as aforesaid, as to the Court shall seem just and expedient.

Court may order Advertisements touching Enforcement of Decree where no substituted Service can be had.

2. In all Cases coming within the First Section of this Act, when the several Matters required to be proved to the Satisfaction of the Court before making any Order for substituted Service shall have been proved, and it shall further be made to appear by Affidavit that there is no Person upon whom such substituted Service can properly be had, it shall be lawful for the Court to order, in lieu of such substituted Service, that Advertisements shall be had in Two or more of the public Newspapers touching the Enforcement of such Decree or Order in such Form and subject to such Conditions in all respects as the Court shall direct.

Decree to be as effectual as personal Service.

3. After any such substituted Service or Advertisements as in the preceding Section of this Act authorized shall have taken place, such Decree or Order may be enforced in all respects as fully and effectually as if the same had been personally served upon the Person liable to the Payment of the Monies due under such Decree or Order, and as if a personal Demand had been made of such Monies from the Person liable to the Payment thereof.

A

BILL

INTITULED

An Act to facilitate the Recovery of Arrears of Alimony in certain Cases under Decrees and Orders of the Provincial and Diocesan Courts in Ireland.

(*Brought from the Lords* 19 *March* 1867.)

Ordered, by The House of Commons, *to be Printed*, 27 *March* 1867.

[Bill 98.]

Under 1 *oz.*

A

BILL

TO

Abolish the Annuity Tax, or Ministers Money, in the Parish of Canongate within Edinburgh, and to make Provision in regard to the Stipends of the Ministers in that Parish and City.

WHEREAS it is expedient that the Annuity Tax, or Ministers Money, at present levied within the Parish of Canongate, situated within the Parliamentary Burgh of Edinburgh, on behalf of the Ministers of that Parish, should be abolished, and that Provision should be made with respect to the future Payment of the Stipends of the said Ministers; and that Provision should be made for the future Payment of the Stipends of the Ministers of the City of Edinburgh, by amending the Acts Twenty-third and Twenty-fourth Victoria, Chapter Fifty, and Twenty-fourth and Twenty-fifth Victoria, Chapter Twenty-seven, under which the said Stipends are now regulated: Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The following Words and Expressions in this Act shall have the several Meanings hereby assigned to them:

The Word "Commissioners" shall mean the Commissioners appointed and incorporated under the first-recited Act:

The Expression "Magistrates and Council" shall mean the Lord Provost, Magistrates, and Council of the City of Edinburgh for the Time being:

The Word "City" shall mean the City of Edinburgh.

Canongate Annuity Tax abolished.

2. From and after the *Second Day of February One thousand eight hundred and sixty-eight*, when the fixed Stipends herein-after provided become payable, the Impost or Tax now levied under the Name of the Annuity Tax, within the Parish of Canongate, for the Maintenance in Part of the Ministers thereof, shall cease to be imposed or levied.

Pews of Canongate Church to be let.

3. The whole Pews or Seats in the Church of the said Parish of Canongate, from and after the *Eleventh Day of November One thousand eight hundred and sixty-seven*, shall be let by or at the Sight of the Kirk Session of the said Parish, and the whole Proceeds thereof shall be paid over to the Ecclesiastical Commissioners appointed under the Provisions of the first-recited Act, who have Power to receive the Pew or Seat Rents of the City Churches.

How Pew Rents are to be regulated.

4. The said Commissioners, in fixing the Rents to be charged for Pews or Seats within the Fourteen Churches of the City and Canongate, shall regulate the same under the Powers conferred on them by the Sixth Section of the first-recited Act as respects the City Churches, in such Manner that the total Amount derived from the Pew or Seat Rents of the said Fourteen Churches shall not be less than *Four thousand Pounds* in any One Year, and shall not in any One Year be more than the Amount derived from the Pew or Seat Rents of the Thirteen City Churches in the Year ending at Martinmas *One thousand eight hundred and thirty-two*, namely, *Seven thousand five hundred and thirty-nine Pounds Seventeen Shillings and Elevenpence;* and such Produce shall be paid over by the Kirk Sessions of these Churches to the Commissioners free from any Deductions whatever.

Permanent Stipend Fund.

5. The annual Produce of the said Pew or Seat Rents, amounting as aforesaid to not less than *Four thousand Pounds*, together with the Sum of Two thousand Pounds presently payable annually to the Commissioners by Her Majesty's Remembrancer and Her Majesty's Auditor in the Court of Exchequer in Scotland, and the Rents payable to the Commissioners for the Dwelling Houses, Cellars, and Vaults underneath or attached to some of the said Churches, including the Feu Duties payable in respect of the Ground

Ground whereon Lady Yester's Church was formerly built, and the Interest of the Mortification or Monies mortified for the Endowment of the last-named Church, and M'Call's Mortification, now administered by the Magistrates and Council, shall, subject to the Conditions herein-after provided for the Payment of certain temporary Annuities for securing the Life Interests of the present Incumbents, form the future permanent Stipend Fund; and the Stipends of all the Ministers of the said City Churches and Canongate Church, who may be presented to the same upon the Death or Demission of the present Ministers, shall be paid out of the said Fund at the Terms of Candlemas and Whitsunday yearly in equal Portions.

Payment of Ministers' Stipend.

6. The Commissioners shall, out of the Money received by them under the Provisions of this and the before-recited Acts, pay, in the first place, to every Person who, at the passing of this Act, was and continues to be a Minister of any of the Churches of the City regulated by the first-recited Act, during all the Days of his Life, the full Stipend to which he became entitled under that Act; and, in the next place, pay to each of the Two present Ministers of the Collegiate Charge of the Parish of Canongate, in Two equal Portions, at the Terms of Candlemas and Whitsunday *One thousand eight hundred and sixty-eight*, and annually thereafter, in lieu of that Portion of their Incomes formerly derived from the Annuity Tax hereby abolished, the Sum of *Two hundred and fifty Pounds* per Annum; and after the First Payment shall have been made to the said Two Ministers of the Canongate, all Arrears of the foresaid Annuity Tax shall cease to be leviable; and on the Death or Demission of the present Minister of the said Parish, who was appointed by the Heritors, Kirk Session, Members, and others, the whole Duties shall devolve on the surviving Minister, to whom and to his Successor in Office the Commissioners shall pay yearly the Sum of *Three hundred and fifty Pounds* at the Terms and in the Portions aforesaid, and the Charge of which the Patronage now belongs to the Heritors, Kirk Session, Members, and others shall lapse and become extinct, and no Successor in such Charge shall be appointed; and such surviving Minister and his Successor in Office shall, in addition to the foresaid Sum, have Right to the Manse, Bishop's Rents, and Kirkyard Dues, which were formerly divided between the Two Ministers; and the said Sum of *Three hundred and fifty Pounds* shall be payable to the Successor of the present Ministers of the Canongate out of the permanent Stipend Fund, in the same Way and Manner as the Stipends of the Successors of the present City Ministers shall be payable.

Canongate Church to be uncollegiated on the Death of One of the present Ministers.

Annuity to be restricted in Amount.

7. So much of the Eighth Section of the first-recited Act, and of Schedule (A.) annexed thereto, as requires the Magistrates and Council to pay to the Commissioners a perpetual Annuity of Four thousand two hundred Pounds per Annum, by equal Portions, on the Second Day of February and Fifteenth Day of May in each Year, shall be repealed; and from and after the *Second Day of February One thousand eight hundred and sixty-eight*, the said Annuity shall be restricted to *Two thousand three hundred Pounds*, of which the first Portion shall be payable at that Date; and after the Death or Demission of One of the Eight Ministers now officiating in any of the Churches situated within the Ancient Royalty of the City, the said Annuity shall be restricted to *One thousand seven hundred Pounds;* and after the Death or Demission of a Second Minister now officiating in any of the said Churches the said Annuity shall be restricted to *One thousand one hundred Pounds;* and after the Death or Demission of a Third Minister now officiating in any of the said Churches the said Annuity shall be restricted to *Five hundred Pounds;* and after the Death or Demission of One of the present Ministers of the Parish of Canongate the Annuity which would otherwise have been payable shall be reduced by *One hundred and fifty Pounds;* and after the Death or Demission of the Second Minister now officiating in the Parish of Canongate the Annuity which would otherwise have been payable shall be reduced by *Three hundred and fifty Pounds;* and after the Death or Demission as aforesaid of Three Ministers now officiating in Churches situated within the Ancient Royalty of the City, and of the Two Ministers now officiating in the Parish of Canongate, the Obligation to pay any Annuity shall cease and determine, and the Bond of Annuity granted by the Magistrates and Council in Terms of the first-recited Act, and of Schedule (A.) annexed thereto, shall be held to be cancelled, and the Security which the Commissioners now enjoy under the said first-recited Act over the Revenues and Properties of the City shall cease and determine; and it shall thereafter be in the Power of the Commissioners either to provide Stipends, of such Amount as they shall think fit, out of the foresaid permanent Stipend Fund, as Vacancies occur, for all or any of the Successors of the said Three Ministers of the Ancient Royalty, or if the Commissioners shall in the Exercise of their Discretion determine not to provide Stipends for a Successor or Successors to any One or more of such Ministers, no Successor shall be appointed, and the Charge shall thereupon lapse and become extinct in the same Way and Manner as is provided respecting other Charges, under the Twenty-first Section of the first-recited Act; and a Re-arrangement of the Charges and of the Boundaries of the City Parishes shall in such Case be made, in conformity with the Powers conferred

When Vacancies occur, how to be provided for.

conferred by the Twenty-third Section of the first-recited Act respecting other Charges.

Act to be recorded in public Registers.

8. As soon as the said Bond of Annuity for Four thousand two hundred Pounds per Annum, granted in Terms of the first-recited Act, and of Schedule (A.) annexed thereto, shall be held to be cancelled in manner before provided, the Real Security created by the first-recited Act shall be extinguished for ever thereafter; and a Copy of this Act, recorded in the General Register of Sasines kept at Edinburgh, and in the Register of Sasines for the Burgh of Edinburgh, shall to all Intents and Purposes be, and shall be held to be, equivalent to a Discharge and Renunciation, in favour of the Debtors in the said Bonds of Annuity, of all the Heritable Property belonging to the Magistrates and Council, so as to free and relieve the same of the Real Burden created by the first-recited Act, and the recording of the same in the said Register of Sasines, and shall also be held equivalent to an intimated Retrocession of the Debts and Rights and to actual Redelivery of the Moveable Property of the said Magistrates and Council, so as to free and relieve the same in all Time to come from all Lien over the same in favour of the Ecclesiastical Commissioners or any of the said Ministers; and the Keepers of the said General Register of Sasines and Burgh Register of Sasines are, upon a Copy of this Act being presented to them for that Purpose on behalf of the Magistrates and Council, hereby authorized and required to record the same in the said respective Registers.

Rate of Assessment to be reduced in Amount.

9. The Bonds of Annuity granted in Terms of the first-recited Act, and Schedule (B.) annexed thereto, in favour of the Commissioners, for behoof of Doctor John Hunter, Doctor James M'Letchie, and the Reverend George Smith, during their several Lives, being now extinguished by reason of their Decease, and the present Rate of Assessment being in consequence now limited to Threepence per Pound, so much of the Eleventh Section of the first-recited Act as authorizes the Magistrates and Council to levy the said Assessment to any Extent not exceeding Threepence per Pound on the Rental of the Property situated within the Ancient and Extended Royalties as declared and limited by the second-recited Act, shall be repealed, and from and after the Term of Whitsunday *One thousand eight hundred and sixty-eight* the said Assessment shall not exceed *One Penny and One Halfpenny* per Pound on the Rental of the Property situated within the said Ancient and Extended Royalties; and such Assessment shall be farther reduced from Time to Time by the Magistrates and Council, as nearly as may be practicable, in the same Proportion in which the Annuities

herein-before made payable shall be reduced in Amount, and the said Assessment shall altogether cease when the said Annuities cease to be payable as herein-before provided; but declaring that, so long as any such Assessment shall be levied over the Ancient and Extended Royalties, it shall in like Manner be levied to the same Extent over the whole Lands and Heritages in the Parish of Canongate, and in the same Way and Manner as it may be levied over the Ancient and Extended Royalties under the said recited Acts and this Act.

Assessment not to be levied beyond the Royalty and Canongate.

10. So much of the Twenty-fifth Section of the first-recited Act as provides that the Magistrates and Council shall annually, on or before the *Twenty-fifth Day of January*, transfer and pay over, from the Produce of the Assessments levied under the Powers of the "Edinburgh Police Act, 1848," and the "Edinburgh Municipality Extension Act, 1856," into the Account kept in relation to the Funds, Revenues, and Property made over to the Creditors of the City in security of the Annuities payable to them, such proportional Sum as shall correspond with a Rate of *One Penny* in every Pound of Four Fifths of the gross annual Value of the Property in respect of the Occupation of which the said Assessments are levied, shall be repealed; and from and after Whitsunday *One thousand eight hundred and sixty-eight* the said proportional Sum shall be computed as if the said Assessment were leviable only within the Ancient and Extended Royalties of the City as declared and limited by the second-recited Act, and within the Parish of Canongate, and the said proportional Rate of *One Penny* per Pound shall, from and after that Date, be levied only within the foresaid restricted Boundaries, and not within any Part of the extended Limits of the City which was not formerly assessed for the Annuity Tax; and from and after the Term of Whitsunday *One thousand eight hundred and seventy-two*, when the Magistrates and Council will come into possession of the whole Revenues accruing from the City Cornmarket Customs and Dues, under the Provisions of the Act Tenth and Eleventh Victoria, Chapter Forty-eight, the foresaid Tax of *One Penny* per Pound shall cease and determine, and shall not thereafter be imposed or levied within the Ancient and Extended Royalties of the Parish of Canongate.

Assessment to expire in Eighteen hundred and seventy-two.

Security given to the Creditors of the City regulated.

11. And whereas the Produce of the foresaid Assessment of *One Penny* per Pound levied over the extended Limits of the City during the Year in which it was first imposed amounted to Two thousand four hundred and one Pounds Fourteen Shillings and Ninepence, over which Sum the Creditors of the City obtained by the first-recited Act a preferable Security: And whereas the Produce

Produce of the said Assessment within the restricted Limits in which it is hereafter to be levied will amount to a smaller Sum; and in order to provide that the Security given to the City Creditors shall not be diminished to less than the foresaid Amount, from and after the *Twenty-fifth Day of January One thousand eight hundred and sixty-eight* the Magistrates and Council shall, out of the Customs and Market Dues of the City, transfer and pay over annually into the Account kept in relation to the Funds, Revenues, and Property made over to the said Creditors in security of the Annuities on the Bonds of Annuity granted under the Provisions of the Act First and Second Victoria, Chapter Fifty-five, such annual Payments as, together with the Produce of the Assessment of One Penny per Pound levied over the Ancient and Extended Royalties of the City and the Parish of Canongate, will make up the foresaid Sum of Two thousand four hundred and one Pounds Fourteen Shillings and Ninepence yearly, until the Term of Whitsunday *One thousand eight hundred and seventy-two*, after which Date the whole of the last-mentioned Sum shall be transferred and paid over annually out of the said Customs and Market Dues, including the said Cornmarket Customs and Dues: Provided, that in case, under the Provisions of the last-mentioned Act, the said Creditors shall have adjudged or shall adjudge the Funds, Revenues, and Property made over to them in security as set forth in Schedule (A.) to the said Act annexed, such Adjudication shall extend to and include the said Payments from the Assessments so long as the Assessments are leviable, and the additional annual Payments from the Customs or Market Dues of the City, and, after the Term of Whitsunday *One thousand eight hundred and seventy-two*, from the Cornmarket Customs and Dues; and the said annual Payments shall be preferable to all other Debts, Obligations, and Securities affecting the said Customs or Market Dues, or Cornmarket Customs and Dues, and shall be enforced in the same Way and Manner as the Security which the Creditors already enjoy for One thousand Pounds annually may be enforced under the said last-mentioned Act.

Church Door Collections to be paid to the Commissioners.

12. From and after the Term of Martinmas *One thousand eight hundred and sixty-seven*, the whole ordinary Church Door Collections or Offerings, other than Collections made for special Purposes, shall be accounted for and paid over to the Commissioners by the Kirk Sessions of each of the said Fourteen Churches; and the Kirk Sessions thereof shall not be required to render any Account of their Expenditure of the said ordinary Church Door Collections or Offerings to the Board of Supervision for the Management of the Poor established by the Act Eighth and Ninth

Victoria, Chapter Eighty-three, the Provisions of which Act shall not, after the Period last-mentioned, be applicable to the Collections in the said Churches.

Church Door Collections, how to be applied.

13. The Commissioners shall, from and after the *Eleventh Day of November One thousand eight hundred and sixty-seven*, apply, either by themselves or through the Kirk Sessions, as they shall think fit, the Produce of the foresaid Church Door Collections or Offerings, for defraying all the Expenses connected with the said Fourteen Churches, other than Ministers' Stipends, including in such Expenses all the Purposes specified in the Sixth and Seventh Sections of the first-recited Act: Provided that any Surplus arising on the total Revenue derived from the Church Door Collections or Offerings may be applied by the Commissioners in aid of the permanent Stipend Fund, and that any Surplus arising on the permanent Stipend Fund may in like Manner be applied in aid of the ordinary Expenses connected with the proper Maintenance of the Churches.

Patronages of Churche to be exercised by the Elders and Male Communicants.

14. So much of the Twenty-second Section of the first-recited Act as requires Payment to be made by the Commissioners or Kirk Session to the City Treasurer, for behoof of the Magistrates and Council, of Six hundred Pounds as the Value and Price of the Right of Patronage of any One or of each of the Parochial Charges in the City, before the Right of Patronage shall be transferred by the Magistrates and Council to and vested in the Kirk Sessions of such Church for the Purpose of being in all Time thereafter lawfully exercised by the Elders and other Male Members of the Church in which there is a Vacancy, or a Majority of their Number in full Communion, and whose Names have stood on the Roll of Communicants of such Church for Three Years preceding the Occurrence of the Vacancy, shall be repealed; and from and after the passing of this Act, the Right of Patronage of each of the City Churches shall be transferred to and vested in the Kirk Sessions thereof, and shall be exercised by the Elders and Communicants, in the Manner provided for in the Twenty-second Section of the said recited Act, without the Payment of any Price for the same, as fully and freely as if the said Sum of Six hundred Pounds had been paid to the Magistrates and Council for each such Right of Patronage.

Statutes inconsistent with this repealed.

15. All Laws, Statutes, and Usages inconsistent with the Provisions of this Act are hereby repealed.

Act to be construed with first Two recited Acts.

16. This Act shall be construed as One with the first Two recited Acts, in so far as the Provisions of these Acts are not repealed by or inconsistent with the Provisions of this Act.

burgh, Parish of Canongate).

A

BILL

To abolish the Annuity Tax, or Ministers Money, in the Parish of Canongate within Edinburgh, and to make Provision in regard to the Stipends of the Ministers in that Parish and City.

(Prepared and brought in by Mr. M'Laren, Mr. Dunlop, and Mr. Baines.)

Ordered, by The House of Commons, *to be Printed,* 6 *February* 1867.

[Bill 2.]

Under 2 oz.

Army Enlistment Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Twelve Years the Limit of Enlistment.
2. Renewal of Enlistment.
3. Continuance in Her Majesty's Service after Twenty-one Years therein.
4. On Expiration of Enlistment, Soldiers on Foreign Stations to be sent home.
5. Unless he desires to remain in the Colony or Possession.
6. Rules for reckoning Service.
7. Discharge on Completion of Service.
8. Repeal of 10 & 11 Vict. c. 37. and 12 & 13 Vict. c. 73. as to Soldiers enlisted under this Act.
9. Forms of Attestation.
10. Enlistment for particular Arm of or for general Service.
11. Short Title.

A

BILL

FOR

Limiting the Period of Enlistment in Her Majesty's Army.

WHEREAS it is expedient to alter the Periods of Enlistment now in use in Her Majesty's Land Forces : Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. From and after the *passing of this Act* no Person shall be enlisted for the First Term of his Engagement to serve Her Majesty as a Soldier for a longer Period than *Twelve Years*, to be reckoned from the Day on which the Recruit shall have been attested for Service. Twelve Years the Limit of Enlistment.

2. Any Person who now has or may hereafter have completed at least *Two Thirds* of the First Term of his Enlistment may at any Time thereafter, with the Approbation of his Commanding Officer or other competent Military Authority, be re-engaged for such a Period as shall complete a total Period of *Twenty-one Years* in Her Majesty's Service. Renewal of Enlistment.

Continuance in Her Majesty's Service after Twenty-one Years' therein.

3. Any Soldier who shall have completed a total Period of *Twenty-one Years* Service may give Notice to his Commanding Officer of his Desire to continue in Her Majesty's Service; and if his Commanding Officer or other competent Military Authority approves of such Application he may be continued as a Soldier, subject in all respects to the Provisions of this Act and of the Mutiny Act and Articles of War, as if his Term of Service were still unexpired, until he shall have given *Three Calendar Months* Notice to his Commanding Officer of his Wish to be discharged, and the Expiration of such Notice.

On Expiration of Enlistment, Soldiers on Foreign Stations to be sent home.

4. Any Soldier whose Period of Enlistment or of total Service shall expire while he is serving on any Foreign, Colonial, or Indian Station may be detained, and his Service may be prolonged, for such further Period as shall be directed by the Commanding Officer at the Station there, not exceeding *Twelve Months;* but at the Expiration of such prolonged Service, or sooner, if the said Commanding Officer shall see fit, the Soldier shall, unless he desires to remain there, be sent home at the Public Charge as in the Case of Soldiers invalided, with all convenient Speed, and after his Arrival he shall be discharged.

Unless he desires to remain in the Colony or Possession.

5. If any such Soldier being in any of Her Majesty's Colonies or Possessions abroad desires to remain and to claim his Discharge there, he shall, if such be his Desire, give Notice thereof to the Governor through the Commanding Officer, whereupon it shall be lawful for such Governor, if he sees fit, with the Consent of the Commanding Officer, to permit such Soldier to remain in such Colony as a discharged Soldier, and such Soldier shall have no Claim thereafter to be conveyed to his Home in the United Kingdom or elsewhere.

Rules for reckoning Service.

6. In reckoning the Service of a Soldier for Discharge under the Provisions of this Act there shall be excluded therefrom such Periods of Time during which he has been absent from his Duty for any of the following Causes: Imprisonment for any Cause, save that of Detention awaiting any Trial which results in the Acquittal and Discharge of the Prisoner from Custody, Desertion or Absence without Leave, exceeding *Five Days*, or as a Prisoner of War, unless in the latter Instance it shall appear to the Satisfaction of a Court-martial to be summoned on his rejoining Her Majesty's Service, that he was not taken Prisoner through his own wilful Neglect of Duty, and that he rejoined as soon as he could and ought to have done.

7. Every

Discharge on Completion of Service.

7. Every Soldier who shall have completed his Period of Service according to the Provisions of this Act shall be entitled to his Discharge, provided at the Time of the Expiration of such Period of Service he does not stand charged with the Commission of any Offence, in which Case his Period of Service shall be prolonged, and his Discharge deferred, until he shall have undergone his Trial by Court-martial, and any Punishment awarded against him. Every Soldier, until he has received his Discharge, shall remain subject to all the Provisions of any Act that may be in force for punishing Mutiny and Desertion, and any Articles of War made in pursuance thereof.

Repeal of 10 & 11 Vict. c. 37. and 12 & 13 Vict. c. 73. as to Soldiers enlisted under this Act.

8. After the *passing of this Act* every Person enlisting or re-enlisting or any Soldier re-engaging into Her Majesty's Service shall be subject to the Provisions of this Act; and the Provisions of the Act of the Session holden in the Tenth and Eleventh Years of Her Majesty's Reign, Chapter Thirty-seven, intituled "An Act "for limiting the Term of Service in the Army," and of the Act of the Session holden in the Twelfth and Thirteenth Victoria, Chapter Seventy-three, intituled "An Act to limit the Enlistment in the "Artillery and other Ordnance Corps," shall be then wholly repealed as to such Persons and Soldiers.

Forms of Attestation.

9. The Forms to be used on the Attestation of a Soldier, and on renewing his Service, or on re-engaging, under this Act, shall be such as are set forth in the Schedule hereto, or as are prescribed in the Mutiny Act for the Time being in force.

Enlistment for particular Arm of or for general Service.

10. Every Person enlisting under this Act shall be enlisted for some particular Arm or Branch of Service, and if he shall enlist for Cavalry or Infantry he shall be at liberty to declare and state the particular Regiment of Cavalry or Infantry into which he desires to enlist, and he shall be attested for the same and be sent thereto with all convenient Speed; but if no such Statement or Declaration be made by such Person at the Time of his Attestation as aforesaid, then he shall be attested for general Service, and it shall be lawful for the Military Authorities, at any Time within *Twelve Months* after his Attestation, to attach him to such Regiment as to them shall seem to be most fitting and convenient for Her Majesty's Service; provided always, that after the Recruit shall have been attached to any Regiment he shall not be removed or transferred therefrom save and except under the Provisions of the Mutiny Act for the Time being in force.

Short Title.

11. This Act shall be cited as The Army Enlistment Act, 1867.

SCHEDULE referred to in the foregoing Act.

DECLARATION to be made by RECRUIT on ATTESTATION.

I now residing in the Parish of in the County of , do solemnly and sincerely declare, That to the best of my Knowledge and Belief I was born in the Parish of (*a*) in or near the Town of (*b*) in the County of (*c*) , and am Years of Age; that I am of the Trade or Calling of [*or* of no Trade or Calling, *as the Case may be*]; that I am not an Apprentice; that I am not married; that I do not belong to the Militia, or to the Naval Coast Volunteers, or to any Portion of Her Majesty's Land or Sea Forces; that I have never served Her Majesty by Land or Sea in any Military or Naval Employment whatsoever, except ; that I have never been marked with the Letter D; that I have never been rejected as unfit for Her Majesty's Service on any previous Enlistment; that I was enlisted at on the Day of 186 , at o'Clock M. by of , and that I have read [*or* had read to me] the Notice then given to me, and understood its Meaning; that I enlisted for a Bounty of and a free Kit, and have no Objection to make to the Manner of my Enlistment; that I am willing to be attested to serve in the Regiment of [*instead of the Words* "in the Regiment," *any Words may be substituted which are applicable to the Case as in or for General Service in that Command or Branch of the Service for which the Enlistment may be made*] for the Term of *Twelve Years*, provided Her Majesty should so long require my Services, and also for such further Term, not exceeding Twelve Months, as shall be directed by the Commanding Officer on any Foreign Station.

_____ *Signature of Recruit.*

_____ *Signature of Witness.*

Note (*a*), (*b*), (*c*). These Blanks need not be filled up if the Recruit is unable to give the requisite Information.

DECLARATION to be made by a SOLDIER, or PERSON having been a SOLDIER, on renewing his Service.

I do declare, That I am at present [*or* was, *as the Case may be*,] in Captain Company in the Regiment [*the foregoing Portion of this Declaration may be altered to suit each particular Case*]; that I enlisted on the Day of for a Term of Years; that I am of the Age of Years; and that I will serve Her Majesty, Her Heirs and Successors, for a further Term of Years [*to be filled up with such Number of Years as shall be required to complete a total Service of Twenty-one Years in the Army*,] provided my Services should so long be required, and also for such further Term, not exceeding Twelve Months, as shall be directed by the Commanding Officer on any Foreign Station.

Declared before me_____

_____ *Signature of Soldier.*

_____ *Signature of Witness.*

Army Enlistment.

A

BILL

For limiting the Period of Enlistment in Her Majesty's Army.

(*Prepared and brought in by Sir John Pakington, Mr. Hunt, and Sir James Fergusson.*)

Ordered, by The House of Commons, *to be Printed*, 13 *May* 1867.

[Bill 147.]

Under 1 *oz.*

Army Reserve Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

1. Short Title.
2. Interpretation of Terms.
3. Establishment of Reserve Force for the United Kingdom, not exceeding Men.
4. Formation of Corps, &c.
5. Term of Service to be prescribed by Regulations, &c.
6. Appointment of Officers.
7. Force to be called out for Training and Exercise for Twelve Days in each Year.
8. Reserve Force may be called out in aid of the Civil Power.
9. In case of Invasion or War, Reserve Force may be called out for permanent Service.
10. Reserve Force may volunteer for Duty.
11. Reserve Force, when on Service, to be subject to the Mutiny Act.
12. Punishment for Absence or Desertion.
13. Penalty for damaging or selling or purchasing Accoutrements, &c.
14. Regulations to be made by Secretary of State.
15. Provisions of Turnpike and Railway Acts as to Soldiers to apply to the Force under this Act.
16. Men to be exempted from serving Parish Offices, &c.
17. Provisions of this Act to apply for enrolling Out-Pensioners as a local Force in any Colony, and with respect to such Force.
18. Warrants and Regulations to be laid before Parliament.
19. Repeal of Acts.

SCHEDULE.

A

B I L L

TO

Consolidate and amend the Acts for rendering effective the Service of Chelsea and Naval Out-Pensioners and Pensioners of the East India Company, and for establishing a Reserve Force of Men who have been in Her Majesty's Service.

WHEREAS by Acts passed in the Sessions holden in the Sixth and Seventh and in the Ninth and Tenth Years of Her Majesty Provision was made for the Enrolment as a local Force, for the Preservation of the Peace, of such Out-Pensioners as therein respectively mentioned, the whole Number to be enrolled not to exceed Twenty thousand: Preamble. 6 & 7 Vict. c. 95. 9 & 10 Vict. c. 9.

And whereas by an Act passed in the Session holden in the Tenth and Eleventh Years of Her Majesty, the said Acts were amended and Provision was made for the Enrolment as aforesaid of such Out-Pensioners in Her Majesty's Colonies: 10 & 11 Vict. c. 54.

And whereas by an Act passed in the Session holden in the Eleventh and Twelfth Years of Her Majesty, the Two Acts firstly herein mentioned were made applicable to such Pensioners from the Land Forces of the East India Company resident in the United 11 & 12 Vict. c. 84.

Kingdom who might volunteer to serve Her Majesty as enrolled Pensioners according to the said Acts, the whole Number of Pensioners of the said Hospitals and from the said Land Forces so to be enrolled in the United Kingdom not to exceed Thirty thousand:

22 & 23 Vict. c. 42.

And whereas by an Act passed in the Session holden in the Twenty-second and Twenty-third Years of Her Majesty Provision was made for the Enrolment as a Reserve Force in the United Kingdom, not exceeding Twenty thousand Men, of Persons having previously served in Her Majesty's other Forces or in the Forces of the East India Company who might volunteer for Service under that Act:

And whereas it is expedient that the said Acts should be consolidated and amended as herein-after mentioned:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited as "The Reserve Force Act, 1867."

Interpretation of Terms.

2. In this Act—

The following Expressions shall have the Meanings hereby assigned to them respectively, unless there be something in the Subject or Context repugnant to such Construction:

"The Secretary of State" means One of Her Majesty's Principal Secretaries of State:

"The Lord Lieutenant" means the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being:

"Governor," as applied to a Colony or Possession, includes the Person for the Time being lawfully administering the Government thereof:

"The Reserve Force" means the Reserve Force established by this Act:

"Out Pensioners of Chelsea Hospital" includes all Persons whose Claims for prospective or deferred Pension have been registered in virtue of any Warrant of Her Majesty.

Establishment of Reserve Force for the United Kingdom, not exceeding men.

3. It shall be lawful for Her Majesty to cause to be enrolled and kept up as a Reserve Force in the United Kingdom any Number of Men, not exceeding in the whole *Fifty thousand* Men; such Men to be divided into Two Classes, not exceeding the respective Numbers, and to consist of the Descriptions of Persons, and to be liable to the different Services herein-after respectively mentioned; (that is to say,)

CLASS I.

CLASS I.

not to exceed *Twenty thousand* Men;
to be liable when on permanent Service to serve in the United Kingdom or elsewhere;
and to consist of Men who are serving or have served in any of Her Majesty's Regular Forces, and whose past Service has not exceeded the First Term of Enlistment.

CLASS II.

not to exceed *Thirty thousand* Men;
to be liable when on permanent Service to serve only in the United Kingdom;
and to consist of—
Persons already enrolled in the United Kingdom by virtue of the said Acts or any of them;
Out-Pensioners of Chelsea Hospital;
Out-Pensioners of Greenwich Hospital having served in the Royal Marines;
Persons who are serving or have served in any of Her Majesty's Regular Forces and who have so served for not less than the full Period of the First Term of Enlistment.

Formation of Corps, &c.

4. Subject to the express Provisions of this Act as to the Extent and Nature of their Service, the Reserve Force may be formed into such Corps and may be attached to such Regiments of any of Her Majesty's other Forces as Her Majesty may from Time to Time direct.

Term of Service to be prescribed by Regulations, &c.

5. The Men to be enrolled as aforesaid shall be engaged to serve for such Term or respective Terms of Years as may be directed by the Regulations made under this Act:

And every Man engaging to serve shall make and sign a Declaration in such Form as with reference to the Terms of his Engagement may be prescribed by such Regulations.

Appointment of Officers.

6. It shall be lawful for Her Majesty to appoint to the Reserve Force such Officers and Non-commissioned Officers of any of Her Majesty's other Forces, whether from Full or Half Pay or from the Pension List, as Her Majesty may deem expedient, and to put the whole or any Part of the Reserve Force under the Command of such General or other Superior Officers of any of such other Forces as Her Majesty may from Time to Time be pleased to appoint.

Force to be called out for Training and Exercise for 12 Days in each Year.

7. The Reserve Force shall be called out for Training and Exercise, together or otherwise, at such Place or Places within the United Kingdom, and for such Time or Times not exceeding *Twelve Days* in any Year, as Her Majesty through the Secretary of State, or in Ireland through the Lord Lieutenant, may direct.

Reserve Force may be called out in aid of the Civil Power.

8. It shall be lawful for the Secretary of State, or in Ireland for the Lord Lieutenant, at any Time when occasion may appear to them respectively to require, to call out the whole or so many of the Reserve Force as such Secretary of State or Lord Lieutenant may think necessary, to aid the Civil Power in the Preservation of the public Peace in Great Britain and Ireland respectively:

And it shall be lawful for any Officer commanding Her Majesty's Forces in any Town or District, on the Requisition in Writing of any Justice of the Peace, to call out for the Purpose aforesaid the Men enrolled in the Reserve Force who may be resident in such Town or District, or such of them as he may think necessary.

In case of Invasion or War, Reserve Force may be called out for permanent Service.

9. In case of actual Invasion or imminent Danger thereof, or in case a State of War exists between Her Majesty and any Foreign Power, it shall be lawful for Her Majesty, by Proclamation, to direct that the Reserve Force, or such Part thereof as Her Majesty may think fit, be called out on permanent Service:

Upon the issuing of any such Proclamation, the Men in Class I. of the Reserve Force, or those of them to whom such Proclamation applies, shall become subject to general and unlimited Service with Her Majesty's Army, and the Men in Class II. of the Reserve Force, or those of them to whom the Proclamation applies, shall become liable to serve in aid of the Defence of the Realm, in any Part of the United Kingdom where their Services may be required:

And the said Force, or such Part thereof as may be so called out, shall serve in pursuance of such Proclamation until it be signified to them by Her Majesty's Command that their Services are no longer required.

Reserve Force may volunteer for Duty.

10. It shall be lawful for Her Majesty through the Secretary of State, or in Ireland through the Lord Lieutenant, to direct that such and so many of the Reserve Force as volunteer their Services may be kept on Duty and Pay for any Period not exceeding *Six Months*, in the same Way as the Regular Forces of Her Majesty's Army, and any Person who volunteers for such Service shall be liable to serve accordingly.

Reserve Force, when on Service,

11. Whenever the Reserve Force or any Part thereof is called out for Training and Exercise,

or

or when any of such Force having volunteered their Services for that Purpose are kept on Duty as aforesaid, to be subject to the Mutiny Act.

or when such Force or any Part thereof is called out in aid of the Civil Power as aforesaid, or is called out on permanent Service under Her Majesty's Proclamation,

all the Provisions of any Act then in force for punishing Mutiny and Desertion and for the better Payment of the Army and their Quarters, and the Articles of War in force under the Authority of such Act, shall apply to and in respect of the said Force or such Part thereof as may be or ought to be on Duty on any of the Occasions aforesaid, and the Officers and Non-commissioned Officers appointed to command them, as fully as such Act and Articles may be applicable to and in respect of Her Majesty's Regular Forces; and Offences committed by such Officers and Non-commissioned Officers and the Men of such Force as may be or ought to be on Duty on any of the Occasions aforesaid may be inquired of and tried by Court-martial assembled under the Provisions of any such Act according to the usual Discipline of Her Majesty's Army;

and Courts-martial for the Trial of any such Offences may be holden, and the Punishment awarded by any such Court-martial may be inflicted, either during the Time for which such Officers, Non-commissioned Officers, and Men are or ought to be so on Duty as aforesaid, or at any Time within *Twelve Months* after the Offence has been committed or the Offender has been apprehended.

Punishment for Absence or Desertion.

12. Every Man enrolled in the Reserve Force who, without Leave lawfully granted, or Sickness certified according to any Regulations made under this Act, does not appear at the Time and Place appointed for his Training and Exercise, or for permanent or voluntary Service, or for his Service in aid of the Civil Power, or who having appeared or joined the Force at the Place appointed deserts or absents himself before the Expiration of the Time of Training and Exercise, or before being duly discharged from such permanent or voluntary or other Service as aforesaid, shall be deemed a Deserter, and be liable to be tried and punished by Court-martial under the foregoing Provision, and be also liable to such Forfeiture of Pay, Pension, or Allowance as may be directed by the Regulations made under this Act.

Penalty for damaging or selling or purchasing Accoutrements, &c.

13. Every Man enrolled in the Reserve Force who carelessly loses, destroys, or damages any Arms, Accoutrements, Ammunition, or Clothing provided for him or entrusted to his Charge, shall be liable to make good the same out of his Pay, Pension, or Allowance as may be directed by any Regulations made under this Act, together with such Penalty, not exceeding *double the Amount* of such Loss or Damage, as the Secretary of State may direct;

and every such Man who wilfully damages or destroys, or who sells, pawns, or otherwise unlawfully disposes of any such Arms, Accoutrements, Ammunition, or Clothing, shall be liable to such Forfeiture of Pay, Pension, or Allowance as may be directed by such Regulations:

And any Person knowingly purchasing or receiving the same shall, on summary Conviction before any Justice of the Peace, forfeit any Sum not exceeding *Five Pounds;*

and One Moiety of such Penalty shall go to the Person who informs for the same, and the other Moiety, or where the Offence is proved by the Informer, then the whole of the Penalty shall be paid and applied in such Manner as the Secretary of State may direct, anything in any Act to the contrary notwithstanding:

And for the Recovery of any such Penalty in Scotland or Ireland, as well as in England, the Act of the Session holden in the Eleventh and Twelfth Years of Her Majesty, Chapter Forty-three, shall be used and applied therein, as fully as if such Act had extended to Scotland and Ireland, anything in such Act or in the Act of the Session holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Ninety-three, or in any other Act, to the contrary notwithstanding:

And every Justice who adjudges any such Penalty shall within Four Days report the same and his Adjudication thereof to Her Majesty's Principal Secretary of State for the War Department.

Regulations to be made by Secretary of State.

14. Subject to the Provisions of this Act, it shall be lawful for the Secretary of State to make Regulations in relation to the Execution of this Act, as follows:

as to the Ages and other Qualifications of Men to be enrolled thereunder;

as to the Term or Terms of Service of Men to be so enrolled;

as to the Declarations to be made on or in relation to being so enrolled;

for the Pay of the Officers and Non-commissioned Officers appointed, and Men so enrolled;

for Pensions of Men in respect as well of their Services under this Act as of their previous Services;

as to the Arms, Clothing, Equipment, and Allowances of such Officers, Non-commissioned Officers, and Men;

for the Government of the said Force;

for Fines and Penalties or Forfeitures for Absence from, or Misconduct during, Training and Exercise, or during permanent, voluntary, or other Service, or for the Breach of any of the said Regulations, and the Deduction of such Fines and Penalties from

from any Pay, Allowance, or Pension which may become due to the Offender;

and as to any Matters by this Act made subject to Regulations made thereunder.

Provisions of Turnpike and Railway Acts as to Soldiers to apply to the Force under this Act.

15. For the Purposes of all Enactments relating to Turnpike Roads and to Tolls, the Men enrolled and Officers and Non-commissioned Officers appointed under this Act while on Duty, or going to or returning from any Place of Training and Exercise, or of permanent, voluntary, or other Service, shall be deemed Soldiers and Officers of Her Majesty on Duty, and all such Enactments having reference to Officers and Soldiers on Duty shall be construed accordingly; and the Enactments for the Time being in force concerning the Conveyance by Railway of Her Majesty's Forces of the Line, and their Baggage, Stores, Arms, Ammunition, and other Necessaries and Things, shall apply to the Conveyance of the Reserve Force, their Baggage, Stores, Arms, Ammunition, Necessaries, and Things, and as well with respect to the Officers and Non-commissioned Officers appointed under this Act as with respect to the Men enrolled in such Force.

Men to be exempted from serving Parish Offices, &c.

16. Men enrolled and Officers and Non-commissioned Officers appointed under this Act shall not be liable to serve on any Jury, nor to serve the Office of Constable, or any other Parochial, Township, or Borough Office.

Provisions of this Act to apply for enrolling Out-Pensioners as a local Force in any Colony, and with respect to such Force.

17. The Provisions of this Act shall apply to all Out-Pensioners of Chelsea Hospital and to all Out-Pensioners of Greenwich Hospital who have served in the Royal Marines residing in any of Her Majesty's Colonies and Possessions abroad in which any Officers have been or may be appointed, pursuant to any Act for the Time being in force, for the Payment and Superintendence of the said Out-Pensioners:

And it shall be lawful for Her Majesty, from Time to Time, by Warrant under the Royal Sign Manual, to fix the Number of Men to be enrolled in every such Colony and Possession as a local Force, and to cause them to be armed and equipped as the Governor may direct:

And all the Provisions of this Act for calling out the Reserve Force, or any Part thereof, for Training and Exercise, for calling out such Force, or any Part thereof, on any of the Occasions herein-before in this Behalf mentioned, and for keeping on Duty and Pay such of the Reserve Force as volunteer their Services, and otherwise in relation to Class II. of such Force and to other Persons in respect of such Force, and authorizing Regulations to be made concerning the

Service of the Men, and otherwise, shall apply to and in respect of such local Force as aforesaid in any such Colony or Possession, and to or in respect of any like Force established under any of the Acts hereby repealed, the same Colony or Possession being substituted for the United Kingdom, and the Governor of such Colony or Possession being substituted for the Secretary of State.

Warrants and Regulations to be laid before Parliament.

18. All Warrants and Regulations to be issued or made under this Act shall be laid before both Houses of Parliament within *Fourteen Days* next after the issuing or making thereof, if Parliament be then sitting, or, if Parliament be not sitting, then within *Fourteen Days* after the next Meeting of Parliament.

Repeal of Acts.

19. The Acts mentioned in the Schedule to this Act are hereby repealed;

but such Repeal shall not, save as herein otherwise provided, affect any past Act, or any existing Right, or any Remedy in respect thereof, or the Proof of any past Act;

and all existing Regulations made under the Authority of any Act hereby repealed shall be of the same Force and Effect as if made under this Act;

and every existing Commission and Appointment by or under the Acts hereby repealed or any of them shall be of the same Force and Effect for the Execution and for all the Purposes of this Act, and shall be revocable, in like Manner as if the same were granted hereunder; and any such Commission or Appointment having reference to any of the Descriptions of Persons composing Class II. of the Reserve Force shall have Effect with reference to all Descriptions of Persons composing such Class;

and any Offence against any of the said Acts committed before the passing of this Act shall be punished as if this Act had not been passed.

SCHE

SCHEDULE.

ACTS REPEALED.

6 & 7 Vict. c. 95.	An Act for rendering more effective the Services of such Out-Pensioners of Chelsea Hospital as shall be called out to assist in preserving the public Peace.
9 & 10 Vict. c. 9.	An Act for amending the Act for rendering effective the Services of the Chelsea Out-Pensioners, and extending it to the Out-Pensioners of Greenwich Hospital.
10 & 11 Vict. c. 54.	An Act to amend the Acts for rendering effective the Service of the Chelsea and Greenwich Out-Pensioners.
11 & 12 Vict. c. 84.	An Act to amend the Acts for rendering effective the Service of the Chelsea and Greenwich Out-Pensioners, and to extend them to the Pensioners of the East India Company.
22 & 23 Vict. c. 42.	An Act to provide for the Establishment of a Reserve Force of Men who have been in Her Majesty's Service.

A

BILL

To consolidate and amend the Acts for rendering effective the Service of Chelsea and Naval Out-Pensioners and Pensioners of the East India Company, and for establishing a Reserve Force of Men who have been in Her Majesty's Service.

(*Prepared and brought in by Sir John Pakington, Mr. Hunt, and Sir James Fergusson.*)

Ordered, by The House of Commons, *to be Printed*, 13 *May* 1867.

[Bill 148.]

Under 2 *oz.*

Bill.

ARRANGEMENT OF CLAUSES.

Preamble.

PART I.

As to Arrest for Debt on Mesne and Final Process.

Clauses.

1. After the passing of this Act, Arrest for Debt on Mesne Final Process in Ireland shall be abolished.
2. Persons in Custody for Debt on such Process at the passing of this Act shall be discharged from Prison.
3. Such Discharge shall not in any way invalidate the Judgment under which the Party was arrested.
4. Certain Sections of 3 & 4 Vict. c. 105. repealed, save as to pending Cases.

PART II.

As to a Creditor's Remedies against his Debtor's Person and Property before Judgment, Decree, or Order.

5. In certain Cases before Judgment a marked Writ of *Ne exeat regno* or *Fieri facias* may be issued against a Debtor or his Goods.
6. How such Writs shall be marked.
7. How such Writs shall be executed, and how Defendants or Defendants Goods shall be disposed of, if arrested or seized.
8. The Court may order the Goods seized under a marked Writ of *Fieri facias* to be sold or retained as they may think proper.
9. In case the Plaintiff or Petitioners shall not, within *Six* Days after Notice of Seizure, proceed to get an Order from the Court or Judge as to the Disposal of the Goods so seized, the Sheriff may withdraw from the Seizure.
10. A Defendant arrested under a marked Writ may make a Deposit with the Sheriff in lieu of Bail.
11. A Defendant whose Goods are seized under a marked Writ may make a Deposit or give Bail.
12. After Arrest or Seizure under a marked Writ the Defendant may apply to be discharged, or to have his Goods released, and the Judge or Court may make such Order as he or they may think proper.

PART III.

As to the Effect of Judgments, Decrees, or Orders for the Payment of Money entered, made, or pronounced after the passing of this Act.

Clauses.

13. No Judgment, Decree, or Order for the Payment of Money made *after* the passing of this Act shall continue in force for more than *Seven* Years, except as herein provided.

14. Save as is provided in the last Section, no such Judgment, Decree, or Order shall be capable of being enforced or revived at Expiration of *Seven* Years from its Date.

15. Nothing in this Act contained shall prevent a new Security from being given for the original Debt secured by the expired Judgment.

PART IV.

As to the Effect of Judgments, Decrees, or Orders for the Payment of Money entered, made, or pronounced before the passing of this Act.

16. Past Judgments, Decrees, or Orders to be in the same Position as future Judgments, Decrees, or Orders at the Expiration of *Seven* Years from the passing of this Act.

17. Not to affect Judgments, Decrees, or Orders which shall be Charges on Land at the Time of the passing of this Act, as far as such Land shall be concerned.

PART V.

As to Executions under Judgments, Decrees, and Orders for the Payment of Money.

18. Certain Property of the Debtor shall be liable to be attached under this Act in addition to Property liable to be attached under former Acts.

19. Interest in Land or growing Crops shall not be seized or sold under a *Fieri facias.*

20. A Sale of growing Crops shall be void against the Execution of a Creditor who shall have obtained his Judgment before such Sale.

21. Executions shall not be executed on Christmas Day or Good Friday, or at Night.

Part VI.

As to Proceedings in the Court of Bankruptcy and Insolvency in relation to Parties not Traders within the Meaning of the Bankrupt Acts.

(*a*) As to the Discharge of a Non-Trader as an Insolvent Debtor.

Clauses.

22. In future no Person shall be discharged as an Insolvent Debtor.

23. Nor shall the Court of Bankruptcy and Insolvency have Power to exonerate the Property of a Non-Trader from his Debts.

(*b*) As to Proceedings against a Non-Trader Debtor in the Bankruptcy Court.

24. When a Non-Trader Debtor has Income which can not be seized or attached, or when he has made away with, or when he conceals his Property, a Creditor of such Debtor may apply by Petition against him in the Bankrupt Court.

25. Such Petition shall be verified by Affidavit, and if properly verified, an Order for hearing shall be made, and Notice given to the Debtor.

26. How Notice to be given if personal Service cannot be effected.

27. If Debtor shall not appear at the Hearing, a Warrant for his Arrest may be ordered by the Court.

28. The Debtor shall be examined at the Hearing, and if he refuses to answer Questions, he may be committed.

29. If it shall appear that the Debtor has made away with his Property, or concealed the same, the Court may commit him to Prison for any Period not more than *Twelve* Months.

30. The Court may issue a Warrant to seize, or to search for and seize, any concealed Property of the Debtor.

31. Concealed Property when seized may be ordered to be sold for the Benefit of the Petitioner.

32. A Debtor's Benefice may be sequestered by Order of the Court in favour of the Petitioner.

33. Or his Pay, Half Pay, or Salary may be attached.

34. The Petitioning Creditor may obtain an Order to arrest the Defendant if about to quit Ireland.

35. Power for Two or more Creditors to join in a Petition, and for the Court to consolidate Petitions.

36. Court may order Satisfaction if a Creditor's Petition shall be fraudulently or maliciously filed.

(*d*) Proceedings for Protection by a Non-Trader Debtor in the Bankrupt Court.

Clauses.

37. A Non-Trader Debtor may petition the Bankrupt Court for Protection of his Goods from Seizure in certain Cases.

38. Such Petition shall be accompanied with a verified Statement of Creditors, Debts, and Property.

39. The Court shall fix a Time for hearing such Petition, and shall cause Notice of the same to be given to the Debtor's Creditors.

40. How the Court shall dispose of the Petition on the Hearing.

41. The Court, if it shall so think fit, may give the Debtor's Property, or a Portion of it, Protection in certain Cases for a Period not exceeding *Five* Years.

42. Protected Property shall be exempt from Seizure without the Order of the Court.

43. Any Creditor may apply to rehear the Petition.

44. Remedy for a Debtor for his Debt at the Expiration of the Protection if his Judgment expired.

(*e*) As to the Hearing of Petitioners before Chairmen of Counties.

45. The Court of Bankruptcy and Insolvency may direct certain Petitions of or against Non-Trader Debtors to be heard by the Chairmen of Counties.

PART VII.

As to Proceedings in the Court of Bankruptcy and Insolvency in relation to Traders within the Meaning of the Bankrupt Acts.

(*a*) As to the Discharge of Bankrupts.

46. Present Bankrupt Code to remain unaltered, save as herein expressly altered.

47. A Bankrupt's Certificate shall be hereafter Absolute or Provisional.

48. An Absolute Certificate shall freefuture Property; a Provisional Certificate shall not.

49. No Certificate shall be granted to a Bankrupt which shall free his future Property unless a Dividend of 6*s.* 8*d.* shall have been paid to the Creditors, or Three Fourths of the Creditors assent.

(*b*) As to how a Bankrupt's future Property shall be rendered available to his Creditors.

50. How Bankrupt shall be summoned.

51. Service of Summons in Ireland.

52. Service

Clauses.

52. Service of Summons out of Ireland.
53. Procedure on Appearance of Debtor.
54. Adjournment and Security for Bankrupt's Attendance.
55. Power to order Payment of Money into Court.
56. Power to appoint Receiver, &c.
57. On Payment Disharge of Orders.
58. Vesting of Estate on Default of Payment.
59. Application of Money paid in and Proceeds of Sale.
60. As to Costs of Proceedings.

PART VIII.

As to Proceedings in the Civil Bill Court against Debtors on Civil Bill Decrees for Sums under Ten *Pounds.*

61. Process of Arrest on Decrees for Sums under 10*l.* not to be affected by this Act.
62. Decrees made on such Process shall for the future specify for what Period, not exceeding *Three Months*, the Debtor shall remain in Custody in case he shall not pay the Amount ordered.
63. Debtor obtaining his Discharge on Payment of an Instalment may be arrested for a subsequent Instalment.

PART IX.

General Provisions.

64. Judges of Common Law Courts may frame Writs.
65. General Orders to be made by the Judges of the Court of Bankruptcy and Insolvency to carry this Act into execution.
66. Power to discharge a Debtor committed to Custody if further Confinement would be dangerous to his Life or Health.
67. *Six Months* shall be the Limit of any Imprisonment for refusing to answer a Question.
68. Short Title of this Act.

A

B I L L

TO

Abolish Arrest for Debt on Mesne and Final Process, except in certain Cases, and to amend the Law of Debtor and Creditor in Ireland.

Preamble.

WHEREAS it is expedient to abolish Arrest for Debt on Mesne and Final Process, except in certain Cases, and to amend the Law of Debtor and Creditor, in Ireland: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Part I.

As to Arrest for Debt on Mesne and Final Process.

After the passing of this Act Arrest for Debt on Mesne and Final Process in Ireland shall be abolished.

1. From and after the *passing of this Act* no Person shall be arrested for Debt on Mesne Process in any Civil Action in Ireland, save as herein-after provided, nor shall any Person, except as is herein-after excepted, be charged in Execution upon any Judgment, Decree, or Order for the Payment of any Sum of Money, or Damages or Costs, obtained or made in any of the Superior or Inferior Courts of Law or Equity in Ireland.

Persons in Custody for Debt on such Process at the passing of this Act shall be discharged from Prison.

2. Any Person in Execution or imprisoned at or after *the passing of this Act* solely upon or in virtue of a Judgment, Decree, or Order upon which such Person could not after such Date be taken or charged in Execution may make Application to a Judge of One of Her Majesty's Superior Courts of Law or Equity in Ireland, or to the Court in which the Judgment, Decree, or Order shall have been obtained, to be discharged out of Custody; and on such Application, and on the Facts entitling such Person to apply under this Act for such Discharge being proved to the Satisfaction of such Judge or Court, such Person shall be forthwith discharged out of Custody without the Payment of any Fees by an Order of such Judge or Court.

Such Discharge shall not in any way invalidate the Judgment under which the Party was arrested.

3. Notwithstanding the Discharge of any Debtor by an Order of any such Judge or Court in manner aforesaid, the Judgment, Decree, or Order on which such Debtor was taken or charged in Execution shall remain in full Force, and the Creditor thereunder may proceed on Foot of said Judgment, Decree, or Order against the Property of any such Debtor in the same Manner and to the same Extent as if he had not caused such Debtor to be taken and charged in Execution.

Certain Sections of 3 & 4 Vict. c. 105. repealed, save as to pending Cases.

4. Sections Two, Three, Four, and Five of the Act passed in the Third and Fourth Years of the Reign of Her present Majesty, intituled "An Act for abolishing Arrest on Mesne Process in Civil "Actions, except in certain Cases, for extending the Remedies of "Creditors against the Property of Debtors, and for the further "Amendment of the Law and the better Advancement of Justice "in Ireland," are hereby repealed, but such Repeal shall not affect any Proceeding pending, or any Right that has arisen or may arise, in respect of any Matter or Thing done under or by virtue of any of said Sections.

Part II.

As to a Creditor's Remedies against his Debtor's Person or Property before Judgment, Decree, or Order.

In certain Cases before Judgment a marked Writ of *Ne exeat regno* or *Fieri facias* may be issued against a Debtor or his Goods.

5. If at any Time after the Commencement of any Action or Suit in any Superior Court of Law or Equity in Ireland, and before final Judgment or Decree, it shall be proved to the Satisfaction of any Judge of any of the said Courts, on the Affidavit of the Plaintiff or Petitioner or some other Person, that the Plaintiff or Petitioner has a Cause of Action or Suit for *Fifty* Pounds or upwards against the Defendant, and that there is probable Cause for believing that the Defendant is about to quit Ireland, and that the Cause of Action or Suit of the Plaintiff or Petitioner will be endangered thereby,

or

or that there is probable Cause for believing that the Defendant is about to remove, conceal, or otherwise dispose of all or any of his Goods or Chattels with Intent to defeat or delay the Plaintiff or Petitioner, it shall be lawful for such Judge by special Order to direct that either a Writ of *Ne exeat regno* shall forthwith issue against the Defendant, or a Writ of *Fieri facias* against the Defendant's Goods.

How such Writs shall be marked.

6. Such Writs shall be marked for such Sums as the Judge shall deem proper, not exceeding the Amount of the Debt or Damages sworn as aforesaid to be due or claimed by the Plaintiff or Petitioner, and in addition every Writ of *Ne exeat regno* shall have endorsed on it the Time the Defendant shall be required to remain in Ireland to answer the Plaintiff's Cause or Action of Suit.

How such Writs shall be executed; and how the Defendant or the Defendant's Goods shall be treated if arrested or seized.

7. The Sheriff or other Officer to whom such Writ of *Ne exeat regno* shall be delivered shall proceed to arrest the Defendant thereon without Delay, and such Defendant, when so arrested, shall remain in Custody until he shall give a Bond to the Sheriff or other Officer, with Two responsible Sureties, in the Amount marked on said Writ, conditioned that he shall not leave Ireland for such Time as shall be mentioned in the Endorsement on said Writ; and the Sheriff or other Officer to whom said Writ of *Fieri facias* shall be delivered shall forthwith seize the Goods and Chattels of the Defendants or such Portion thereof as may be sufficient to satisfy or pay the Amount marked on said Writ, wherever the same shall be found in his Jurisdiction, and them safely keep, to abide the Order of the Court in which such Suit or Action shall be pending, or until released by the Defendant as hereafter provided.

The Court may order Goods seized under a marked Writ of *Fieri Facias* to be sold or retained as they may think proper.

8. At any Time after the Seizure of the Defendant's Goods and Chattels under such marked Writ of *Fieri facias* it shall be lawful for the Court in which the Suit or Action in which such Writ issued shall be pending to order the Sheriff or other Officer to sell the Goods and Chattels so seized by him, and to pay the Amount of such Sale into Court, or to retain the same in his Custody until there shall be a Decree or Judgment in such Suit or Action, and to make such Order as to Costs of said Proceedings as they shall think proper.

In case the Plaintiff or Petitioner shall not within Six Days after Notice of the Seizure

9. When any Goods or Chattels shall be seized under a marked Writ of *Fieri facias* the Sheriff or other Officers, who may have made such Seizure shall forthwith cause Notice of the same to be served on the Attorney of the Plaintiff or Petitioner at whose Suit such marked Writ was issued; and if within *Six* Days from the Time

proceed to get an Order from the Court or Judge as to the Disposal of the Goods so signed, the Sheriff may withdraw from the Seizure.

Time of such Notice being so served a Summons shall not be issued by or on behalf of such Plaintiff or Petitioner, of the issuing of which Summons the Sheriff or other Officer shall have Notice, to take the Directions of the Court or of a Judge thereof as to the Disposal of the Goods and Chattels so seized, the Sheriff shall be at liberty to withdraw from the Seizure so made by him, and in such Case he shall be entitled to recover his Fees and Costs of Seizure from the Plaintiff or Petitioner at whose Suit such marked Writ was issued as aforesaid.

A Defendant arrested under a marked Writ may make a Deposit with the Sheriff in lieu of Bail.

10. In case a Defendant arrested under a marked Writ of *Ne exeat regno* shall deposit with the Sheriff or other proper Officer who made said Arrest the Amount marked on said Writ, together with a Sum of *Five* Pounds for the Costs of the same, to abide the Order of the Court out of which said Writ was issued, he shall be forthwith discharged without entering into any Bond to remain in Ireland.

A Defendant whose Goods are seized under a marked Writ may make a Deposit or give Bail.

11. If after a Seizure under a marked Writ of *Fieri facias* the Defendant shall deposit with the Sheriff or other proper Officer who made the same the Sum marked on the Writ under which the Seizure was made, together with the Sum of *Five* Pounds for Costs, or shall give to the said Sheriff or other proper Officer good Security by Bond, of himself and Two or more responsible Parties, for the Sum marked on said Writ and Costs as aforesaid, it shall be lawful for the said Sheriff or other proper Officer to deliver back to the Defendant the Goods and Chattels seized by him under said Writ.

After Arrest or Seizure under a marked Writ the Defendant may apply to be discharged or to have his Goods released, and the Judge or Court may make such Order as he or they may think proper.

12. It shall be lawful for any Person arrested under a marked Writ of *Ne exeat regno*, or whose Goods or Chattels may have been seized under a marked Writ of *Fieri facias*, to apply at any Time after such Arrest or Seizure to a Judge of One of the Superior Courts of Law or Equity in Ireland, or to the Court in which the Action or Suit in which the Writ shall have been issued shall be pending, for a Rule on the Plaintiff or Petitioner in such Action or Suit to show Cause, as the Case may be, either why the Defendant should not be discharged from Custody, or his Bail Bond cancelled, or his Deposit returned, or why the Goods and Chattels of the Defendant so seized should not be released from Seizure and delivered back to the Party making the Application; and it shall be lawful for such Judge or Court to refuse such Rule, or, if granted, to make absolute or discharge the same, and to order the Costs of such Application to be paid by either Party, or to make such Order therein as to such Judge or Court shall seem fit: Provided that any

any such Order made by a Judge may be discharged or varied by the Court on Application made thereto by either Party dissatisfied with such Order.

Part III.

As to the Effect of a Judgment, Decree, or Order for the Payment of Money entered, made, or pronounced after the passing of this Act.

No Judgment, Decree, or Order for the Payment of Money made after the passing of this Act shall continue in force for more than *Seven* Years, except as herein excepted.

13. No Judgment, Decree, or Order for the Payment of Money entered, made, or pronounced, after the *passing of this Act*, in or by any Superior or Inferior Court of Law or Equity in Ireland, shall continue in force for a longer Period than *Seven* Years from the Time such Judgment, Decree, or Order shall be so entered, made, or pronounced, unless Proceedings at Law or Equity for enforcing the same out of the Property of the Debtor shall have been commenced before and shall be actually pending at the Time that such Period of *Seven* Years shall expire, and in such Case it shall be lawful for the Creditor on Foot of such Judgment, Decree, or Order to proceed in such Proceedings against the Property of the Debtor to recover the Amount of his Judgment, Decree, or Order, in the same Manner and to the same Extent as if such Period of *Seven* Years shall not have expired.

Save as provided in last Section, no such Judgment, Decree, or Order shall be capable of being enforced or revived at the Expiration of *Seven* Years from its Date.

14. After such Period of *Seven* Years such Judgments, Decrees, or Orders shall not be capable of being enforced by any Proceedings whatever against a Debtor or his Property, save as is herein-before provided, and shall not be revived or kept in force by a Promise to pay the same, or any Part thereof, or by a Part Payment thereof, nor shall any Action or Suit to recover the Amount thereof be maintainable thereon in any Court of Law or Equity.

Nothing in this Act contained shall prevent a new Security being given for the original Debt secured by the expired Judgment.

15. Nothing herein contained shall prevent any Debtor executing a new Security in Writing for the Debt secured by such Judgment, Decree, or Order, and in such Case such new Security shall be of full Force and Effect in Law, and the Judgment, Decree, or Order shall be deemed sufficient Consideration for such new Security.

Part IV.

As to the Effect of Judgments, Decrees, or Orders for the Payment of Money entered, made, or pronounced before the passing of this Act.

Past Judgments, Decrees, or Orders to be in the same

16. At the Expiration of *Seven* Years from the passing of this Act all Judgments, Decrees, or Orders for the Payment of Money entered, made, or pronounced *before the passing of this Act* shall stand

Position as future Judgments, Decrees, or Orders at the Expiration of *Seven* Years from the passing of this Act.

stand in the same Position as Judgments, Decrees, or Orders entered, made, or pronounced after the passing of this Act, in respect of which *Seven* Years shall have elapsed from the Time the same were so entered, made, or pronounced.

Not to affect Judgments, Decrees, or Orders which shall be Charges on Land as respects such Land.

17. Nothing herein contained shall affect any Judgment, Decree, or Order for the Payment of Money entered, made, or pronounced before the passing of this Act which shall have been registered before the passing of this Act against any Land of the Debtor as a Mortgage, or which otherwise shall be at the Time of the passing of this Act a Charge or Incumbrance thereon; but such Judgment, Decree, or Order shall continue to be capable of being enforced out of the Land of the Debtor in the same Manner and to the same Extent as if this Act had not been passed.

Part V.

As to Executions under Judgments, Decrees, or Orders for the Payment of Money.

Certain Property of Debtors shall be liable to be attached under this Act, in addition to Property liable to be attached under former Acts.

18. Any Income which a Debtor may have payable out of Property in Ireland, or any Money standing to the Credit of any Suit or Matter in any Court of Law or Equity in Ireland to which a Debtor may be entitled, or any Money lodged by or to the Credit of any Debtor or any Trustee for him in any Bank or with any Person or Company in Ireland, may be attached by any Creditor of such Debtor who shall be a Creditor of such Debtor, by Judgment, Decree, or Order, in the same Way and to the same Extent as Joint Stock or other Property of a Debtor may now be attached under "The Common Law Procedure Amendment Act (Ireland) 1853," or any Act amending the same.

Interest in Land or growing Crops shall not be seized or sold under a Fieri facias.

19. It shall not be lawful to seize or sell under a Writ of *Fieri facias* any Terms for Years or any Estate or Interest in Land, or any growing Crops, Trees, Shrubs, Plants, or other Vegetable Matter which shall not be at the Time of the Seizure severed from the Land or Soil.

A Sale of growing Crops shall be void against the Execution of a Creditor who shall have obtained his Judgment before such Sale.

20. No Sale of growing Crops, Trees, Shrubs, Plants, or other Vegetable Matter made before Severance from the Land or Soil shall operate to defeat a subsequent Seizure thereof under a Writ of *Fieri facias* issued on a Judgment, Decree, or Order entered, made, or pronounced before such Severance.

Executions shall not be executed on

21. It shall not be lawful to seize any Goods or Chattels under any Execution between the Hours of *Nine* o'Clock in the Afternoon and

and *Seven* o'Clock in the Morning, or on Christmas Day or on Good Friday, nor shall it be lawful to seize the Debtor's Tools of Trade, necessary Household Goods, or the necessary Wearing Apparel of himself, his Wife and Children, provided the same shall not exceed in the whole the Value of *Twenty* Pounds.

certain Days or between certain Hours and certain Goods of a Debtor to be exempted from Seizure.

Part VI.

As to Proceedings in the Court of Bankruptcy and Insolvency in relation to Parties not Traders within the Meaning of the Bankrupt Acts.

(*a.*) As to the Discharge of a Non-Trader Debtor as an Insolvent Debtor.

22. From and after the passing of this Act no Person shall be discharged as an Insolvent Debtor in Ireland, either on his own or on a Creditor's Petition, unless such Petition shall have been presented before and shall be actually pending at the Time of the passing of this Act, and in such Case the Proceedings shall be in all respects the same as if this Act had not been passed.

In future no Person shall be discharged as an Insolvent Debtor.

23. The Property of a Debtor not a Trader within the Meaning of the Bankrupt Acts shall, after the passing of this Act, always remain liable to his Debts, if the same shall not be barred by Time, and such Property shall not be exempted or exonerated from the Payment of such Debts by any Order of the Court of Bankruptcy and Insolvency.

Nor shall the Court of Bankruptcy or Insolvency have Power to exonerate the Property of a Non-Trader from his Debts.

(*b.*) As to Proceedings against a Non-Trader Debtor in the Bankruptcy Court.

24. In case any Debtor in Ireland not a Trader within the Meaning of the Bankrupt Act, or any one in trust for him, shall be in receipt of any Salary, Wages, Pension, or Income which cannot be seized or attached by any Process or Execution, or in case any such Debtor shall have fraudulently converted, or made away with, or shall fraudulently conceal any Property, to evade the Payment of his Debts, it shall be lawful for any Creditor of such Debtor who may have obtained such Judgment, Decree, or Order against such Debtor, and who has been unable to realize the same by Execution, to present a Petition to the Court of Bankruptcy and Insolvency in Ireland, setting forth the Facts, and praying such Relief in respect of his Debt against the Respondent as such Petitioner shall think proper.

When such a Debtor has Property which cannot be seized or attached, for when he has made away with or conceals his Property, a Creditor of such Debtor may apply by Petition against him in the Bankruptcy Court.

25. Such Petition shall be verified by the Affidavit of the Petitioner, and, if properly verified, the Court shall make an

Such Petition shall be verified by Affidavit, and if Pro-

perty verified, an Order for Hearing shall be made thereon and Notice given to the Debtor.

Order for hearing on said Petition, and shall cause Notice thereof to be served on the Debtor.

How Notice to be given if personal Service cannot be effected.

26. If Service of the Notice of the Petition cannot be effected on the Debtor, and the Court is satisfied that the Debtor is keeping out of the way, either to avoid Service thereof, or to avoid legal Process generally, it may order that One or more Notices be inserted in the "Dublin Gazette," or in One or more Newspapers published in the District in which the Debtor's usual or last known Place of Abode was, requiring him to appear before the Court on the Day fixed for the hearing of the Petition.

If Debtor shall not appear at the Hearing, a Warrant for his Arrest may be issued by the Court.

27. In case the Debtor shall not appear at the Time appointed for the hearing of such Petition, having no lawful Impediment made known to and allowed by the Court at such Time, it shall be lawful for the Court by Warrant to authorize and direct any Person the Court shall think proper to apprehend and arrest such Debtor, and being him before the Court on a subsequent Day which shall be fixed for the hearing of the Petition.

The Debtor shall be examined at the Hearing, and if he refuses to answer Questions he may be committed.

28. The Debtor at the hearing of the Petition shall be examined on Oath as to his Property, or any Disposition or Concealment thereof he may have made, and if he shall refuse to answer any Questions that may be asked him touching the same the Court shall have Power to commit him for Contempt to such Prison as the Court shall direct.

If it shall appear that the Debtor has made away with his Property, or concealed the same, the Court may commit him to Prison for any Period not more than Twelve Months.

29. In case on the hearing of said Petition it shall appear to the Court that the Debtor has fraudulently made away with or concealed any Property for the Purpose of evading the Payment of the Petitioner's Debt, it shall be lawful for the Court to commit the Debtor to Prison, at the Suit of such Petitioner, for a Period not exceeding *Twelve* Months.

The Court may issue a Warrant to seize or to search for and seize any concealed Property of the Debtor.

30. If on the hearing of such Petition it shall be made to appear to the Satisfaction of the Court that there is, or that there is reason to believe that there is, any Property of the Debtor concealed anywhere, the Court may grant a Warrant to such Person as the Court shall think proper, to seize, or to search for and seize, the same.

Concealed Property when seized may be ordered to be sold for the

31. In case any Property of the Debtor shall be seized by the Officer of the Court under any Warrant granted by the Court as aforesaid, it shall be lawful for the Court to direct the Sale of the same, or of so much of the same as shall satisfy the Petitioner's Demand

Demand and Costs, and the Surplus of such Sale or Property shall be handed over to the Debtor. Benefit of the Petitioner.

32. Where the Debtor is a beneficed Clergyman, the Petitioner may apply for a Sequestration of the Profits of the Benefice, and the Order of the Court for that Purpose shall be sufficient Authority for the granting of Sequestration without any Writ or other Proceeding, and the same shall accordingly be issued as on a Writ of *Levari facias* founded on a Judgment against the Debtor; but the Sequestrator shall allow out of the Profits of the Benefice to the Debtor, while he performs the Duties of the Parish or Place, such an annual Sum, payable quarterly, as the Bishop of the Diocese in which the Benefice is situate directs; and the Bishop may appoint to the Debtor such or the like Stipend as he might by Law have appointed to a Curate duly licensed to serve the Benefice in case the Debtor had been non-resident. A Debtor's Benefice may be sequestrated by Order of the Court in favour of the Petitioner.

33. Where the Debtor is or has been an Officer of the Army or Navy, or an Officer or Clerk or otherwise employed or engaged in the Service of the Crown, in the Customs or Inland Revenue, or any Civil Officer or other Department whatever, or has been in the Naval or Military Service of the East India Company, or an Officer or Clerk or otherwise employed or engaged in the Service of the Directors of that Company, or is in the Enjoyment of any Pension whatever under any Department of Her Majesty's Government, or from the said Directors, the Court may make an Order that the Petitioner shall receive so much of the Debtor's Pay, Half Pay, Salary, Emolument, or Pension as the Court, with the Consent in Writing of the Secretary of State, Lords Commissioners of the Admiralty, Commissioners of Customs or Inland Revenue, or Chief Officer of the Department under which the Pay, Half Pay, Salary, Emolument, or Pension is enjoyed shall think proper, and the same shall be paid to the Petitioner accordingly by the proper Officer until further Order of the Court. Or his Pay or Half Pay or Salary, &c. may be attached.

34. If after the filing of any Petition against a Debtor it shall be shown to the Satisfaction of the Court that there is probable Cause for believing that the Person against whom the Petition has been filed is about to quit Ireland, or to remove or conceal any of his Property with Intent to defraud, unless he is forthwith apprehended, the Court may, if it thinks fit, issue a Warrant directed to an Officer of the Court, or to such Persons as the Court thinks fit, whereby such Officer or Persons shall have Authority to arrest the Person against whom such Petition has been presented, wherever found, and to seize his The Petitioning Creditor may obtain an Order to arrest the Debtor if about to quit Ireland.

Monies, Books, and Documents, wherever found, and him and them safely keep to abide the Order of the Court; but the Person against whom such Warrant shall be issued may, at any Time after Arrest or Seizure thereunder, obtain from the Court an Order on the Petitioning Creditor to show Cause why he should not be discharged out of Custody, or why the Things seized should not be delivered up to him, and the Court may, if it thinks fit, on Cause being shown, make absolute or discharge such Order.

Power for Two or more Creditors to join in a Petition, and for the Court to consolidate Petitions.

35. Two or more Creditors may join in One Petition against a Debtor, and in case Two or more Petitions are presented against the same Debtor the Court may consolidate the Proceedings under them.

Court may order Satisfaction if a Creditor's Petition shall be fraudulently or maliciously filed.

36. If such Petition shall be dismissed, and it shall also appear that such Petition was filed fraudulently or maliciously, the Court may, on the Dismissal of such Petition, order Satisfaction to be made to the Party aggrieved of the same, for the Damages by him sustained.

(*d.*) Proceedings for Protection by a Non-Trader Debtor in the Bankrupt Court.

A Non-Trader Debtor may petition the Bankruptcy Court for Protection of his Goods from Seizure in certain Cases.

37. Any Debtor not a Trader within the Meaning of the Bankrupt Acts, unable to meet his Engagements, but capable of making some Proposal for the Payment, Arrangement, or Settlement of his Debts, by Instalments, deferred Payments, or otherwise, may petition the Court of Bankruptcy and Insolvency for Protection of his Property for a limited Time from Execution or Sale on such Terms as may be stated in such Petition.

Such Petition shall be accompanied with a verified Statement of Creditor's Debts and Property.

38. A Debtor presenting such Petition shall file with the same a full and true Statement, verified by his Oath, of his Debts and Liabilities of any Kind, and of the Names and Residences of his Creditors and of his Property, and of the estimated Value thereof.

The Court shall fix a Time for hearing such Petition, and shall cause Notice of the same to be given to the Debtor's Creditors.

39. On the presenting of such Petition the Court shall fix a Time for the Hearing thereof, and Notice of the filing of the said Petition and of the Time fixed for the Hearing of the same shall be given, in such Manner as the Court shall by General Order direct, to every Creditor of such Debtor mentioned in such Statement.

How the Court shall dispose of the Petition on the Hearing.

40. On the Hearing of such Petition the Court may either adjourn or dismiss the same, or may make an Order for the Protection of the Debtor's Property as hereafter mentioned.

41. In

41. In case the Court shall be of opinion that the Terms of the Proposal made by the Debtor in his Petition for the Payment of his Debts by Security, Instalments, or otherwise is reasonable, or that it would be for the Benefit of the Creditors of the Debtor that the Protection prayed for by the Debtor should be either wholly or partially ordered under the Circumstances stated in the said Petition, it shall be lawful for the Court to direct that the Property of the Debtor, or such Portion thereof as to such Court shall seem fit, shall be protected from Seizure or Sale for such Period not exceeding *Five* Years as to the Court shall seem fit, provided a Majority in Number and Value of the Creditors mentioned in the Statement filed by the Debtor shall assent in Writing to the granting of such Protection, but not otherwise.

The Court if it shall so think fit may give the Debtor's Property, or a Portion of it, Protection in certain Cases for any Period not exceeding *Five* Years.

42. After the making of such Order of Protection no Execution against the Debtor's Property mentioned in such Order of Protection shall be available without the Leave of the Court.

Protected Property shall be exempt from Seizure without the Order of the Court.

43. Any Creditor of the Debtor may at any Time apply for a Rehearing of the Petition, and on such Rehearing the Court shall have Power to alter or vary the Order made.

Any Creditor may apply to rehear the Petition.

44. At the Expiration of any Order that may be granted for the Protection of a Debtor's Property, any Creditor of the Debtor shall be at liberty to proceed against the Debtor for his Debt, or any Balance thereof that may remain due to him; and in case any Judgment, Decree, or Order he may have obtained previously to the making of such Order of Protection shall have ceased to be in force, the Creditor under said Judgment, Decree, or Order shall be at liberty to issue a *Fieri facias* out of the Court of Bankruptcy and Insolvency to enforce the Amount of his Debt, or the Balance of his Debt, for such Period as he might have issued the same on Foot of his Judgment, Decree, or Order if the Order of Protection had not been made.

Remedy for a Debtor for his Debt at the Expiration of the Protection if his Judgment expired.

(*e.*) As to the hearing of Petitions before Chairmen of Counties.

45. The Court of Bankruptcy and Insolvency shall have Power, if it shall so think fit, to direct that any Petition that may be presented against or by or on behalf of a Non-Trader Debtor in such Court shall be heard before the Chairman of the Quarter Sessions of the County in which such Non-Trader Debtor shall reside, and in such Case such Chairman shall have Power to exercise all the Powers in this Part conferred on the Court of Bankruptcy and Insolvency in respect of Non-Trader Debtors, but from their Decisions an Appeal may be made to the Court of Bankruptcy and Insolvency.

The Court of Bankruptcy and Insolvency may direct certain Petitions of or against Non-Trader Debtors to be heard before the Chairmen of Counties.

Part VII.

As to Proceedings in the Court of Bankruptcy and Insolvency in relation to Traders within the Meaning of the Bankruptcy Acts.

(*a.*) As to the Discharge of Bankrupts.

Present Bankrupt Code to remain unaltered save as herein expressly altered.

46. Save as herein-after provided, the Proceedings in relation to Traders within the Meaning of the Bankrupt Acts shall continue in all respects the same as they now are under "The Irish Bankrupt and Insolvent Act, 1857."

A Bankrupt's Certificate shall be hereafter either absolute or provisional.

47. Every Certificate of Conformity granted to a Bankrupt in Ireland after the passing of this Act shall specify whether it be an Absolute or a Provisional Certificate.

An Absolute Certificate shall free future Property; a Provisional Certificate shall not.

48. An Absolute Certificate shall operate to free the future acquired Property and Effects of the Bankrupts in respect of the Debts, Claims, and Demands proveable under the Bankruptcy, but under a Provisional Certificate, the Bankrupt's after-acquired Property shall remain liable in respect of such Debts, Claims, and Demands, in manner herein-after provided.

No Certificate shall be granted to a Bankrupt so as to free his future Property unless a 6*s.* 8*d.* Dividend shall be paid to the Creditors, or Three Fourths of the Creditors shall assent.

49. No Absolute Certificate of Conformity shall be granted to a Bankrupt in Ireland after the passing of this Act unless the Estate of the Bankrupt shall have paid or shall be sufficient to pay in the Bankruptcy a Dividend or Dividends of *Six Shillings and Eightpence* in the Pound upon all Debts proved in such Bankruptcy, or unless Creditors who may prove, and whose Debts shall be equal to Three Fourths of the whole Amount of the Debts proved, shall, by Writing under their Hands, consent to such Certificate, as the Case may be.

(*b.*) As to how a Bankrupt's future Property shall be rendered available to his Creditors.

Summons to Bankrupt.

50. If at any Time, after a Provisional Certificate of Conformity shall be granted to a Bankrupt, it shall appear to the Satisfaction of the said Court of Bankruptcy and Insolvency that there is good Cause to believe that, after a reasonable Allowance for the Maintenance of the Bankrupt and his Family, and the Payment of Debts, Claims, and Demands not proveable under the Bankruptcy, the Bankrupt is able to pay any Sum towards the Discharge of Debts, Claims, or Demands proveable under the Bankruptcy, and not fully paid thereunder, the Court may, if it thinks fit, issue a Summons requiring him to appear and be examined respecting his Ability to make such Payment.

51. Where

Service of Summons in Ireland.

51. Where the Bankrupt is in Ireland the Summons shall be served personally, unless in any Case the Court thinks fit to direct that Service in some other Manner shall be good Service.

Service of Summons out of Ireland.

52. Where the Bankrupt is not in Ireland, the Court, on Evidence satisfying it what Service will be effectual to give the Bankrupt Knowledge of the Summons, may order Service to be made by such Means and in such Manner as it thinks fit.

Procedure on Appearance of Bankrupt.

53. On the Appearance of the Bankrupt he may be examined on Oath or otherwise by the Court respecting his Ability to make such Payment, and for the Discovery of Property applicable in that Behalf, and shall produce on Oath or otherwise such Books and Documents in his Possession or Power relating to Property so applicable or alleged to be so applicable as the Court directs, and shall sign his Examination.

Adjournment and Security.

54. The Court may, if it thinks fit, adjourn the Hearing of the Summons from Time to Time, and require from the Bankrupt such Security for his Appearance at the adjourned Hearing as the Court thinks fit.

Power to order Payment of Money into Court.

55. If on the Hearing of the Summons the Court is satisfied that the Bankrupt is able to make such Payment, the Court may make an Order to the Effect that within a Time therein specified the Bankrupt do pay into Court such a Sum as will produce for the Benefit of the Creditors under the Bankruptcy such a Dividend as the Court shall think fit to order.

Power to appoint Receiver, &c.

56. On or after the making of any such Order the Court may, if it thinks fit, appoint the Official Assignee to be the Receiver of the Bankrupt's Property, who shall act and account as such, subject and according to General Orders, and may, if it thinks fit, order that no Execution, Attachment, or other Process against the Bankrupt's Property in respect of any Debt, and no Process against his Person in respect of any Debt other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of Ireland, shall be available without Leave of the said Court of Bankruptcy and Insolvency, and may, if it thinks fit, restrain any Action, Suit, or Proceeding against the Bankrupt on such Terms as the Court thinks fit.

On Payment Discharge of Orders.

57. If on or before the Day specified in the Order for Payment the Bankrupt shall pay into Court the Sum therein specified, the Court shall discharge the former Orders as far as the Circumstances require.

Vesting of Estate on Failure of Payment.

58. If on or before the Day specified the Bankrupt shall not pay into Court the Sum specified, then from and immediately after that Day the Estate of the Bankrupt shall by virtue of this Act vest in the Official Assignee, and the Court may, if it thinks fit, order the same to be sold and disposed of for the Benefit of the Creditors.

Application of Money paid in or Proceeds of Sale.

59. All Money paid into Court by the Bankrupt in pursuance of any such Order, and the net Proceeds of any Sale and Disposition by Order of the Court, shall be applied under the Direction of the Court in or towards the Payment rateably of Debts, Claims, and Demands proveable under the Bankruptcy, and not fully paid thereunder, subject to a reasonable Allowance for the Maintenance of the Bankrupt and his Family, and to the Payment in full of Debts, Claims, and Demands not so proveable.

As to Costs of Proceedings.

60. The Court may make such Order respecting the Costs or the Charges and Expenses of any Person in relation to a Summons under this Part of this Act, and the Mode of recovering them, as seems just.

Part VIII.

As to Proceedings in the Civil Bill Courts against Debtors or Civil Bill Decrees for Sums under Ten *Pounds.*

Process of Arrest or Decrees for Sums under 10*l.* not affected by this Act.

61. Nothing in this Act shall affect the Power of a Chairman of Quarter Sessions to give a Decree against the Person on a Process of Arrest issued on a Civil Bill Decree for a Sum not exceeding *Ten* Pounds.

Decrees made on such Process of Arrest shall specify for what Period, not exceeding *Three* Months, the Debtor shall remain in Custody in case he shall not pay the Amount ordered.

62. From and *after the passing of this Act* every such Decree shall specify the Period, not exceeding *Three* Months, for which the Debtor shall be detained in Custody in case he shall not pay the Sum ordered by such Decree to be paid; and in all Cases in which the Decree against the Person shall go simply to compel Payment of the Amount thereof, or of any Instalment thereof, the Debtor shall be discharged from Custody on Payment of the Sum mentioned in such Decree, or, if said Decree shall be payable by Instalments, on Payment of such Instalment as shall be due and payable when such Arrest shall be made.

Debtor obtaining his Discharge by Payment of an Instalment may be arrested for a subsequent Instalment or for the Balance of the Debt.

63. In case a Debtor shall be discharged from Custody on Payment of an Instalment of any Debts, it shall be lawful to arrest him again on said Decree or any Renewal thereof, or on any new Decree for the Balance of the Debt, or of any Instalment thereof, if such Arrest shall be directed by such Decree, or any Renewal thereof, or by any new Decree.

Part IX.

General Provisions.

Judges of Common Law Courts may frame Writs.

64. The Judges of the Superior Courts of Common Law in Ireland, or any *Six* of them, may by General Order frame any new or alter any existing Writ that may become necessary under this Act, and the Execution of such new or altered Writs may be enforced in the same Manner as the Execution of Writs of Execution is now enforced; and the Sheriffs or other Officers to whom said Writs shall be delivered for Execution shall be entitled to the same Fees for the Execution of the new Writs as they would have been entitled to for the Execution of the old Writs.

General Orders to be made by the Judges of the Court of Bankruptcy and Insolvency to carry this Act into execution.

65. The Judges of the Court of Bankruptcy and Insolvency in Ireland shall, as soon as conveniently may be after the passing of this Act, make General Orders for carrying the Purposes of this Act into execution, and more especially for regulating the Practice, Procedure, and Fees in Matters of Bankruptcy and Insolvency altered by this Act; and by General Order the said Judges may alter any Forms of Procedure now used in their Court that it may be necessary to alter, and may frame any new Forms of Procedure that it may be expedient to adopt, to give effect to the Provisions of this Act; and such General Orders may from Time to Time be altered or revoked, and new General Orders made in lieu of them, but no such General Order shall be of any Force or Effect until approved of by the Lord Chancellor of Ireland.

Power to discharge a Debtor committed to Custody if further Confinement would be dangerous to Life or Health.

66. When any Debtor shall be committed to Prison by the Court of Bankruptcy or Insolvency at the Suit of any Creditor, it shall be lawful for the Court to discharge such Debtor from Custody at any Time before the Expiration of the Period for which such Debtor was committed, if it shall appear to the Satisfaction of the Court that further Imprisonment would endanger the Health or Life of the Debtor.

Six Months shall be the Limit of any Imprisonment for refusing to answer a Question.

67. When any Person shall be committed for refusing to answer or not fully answering a Question on Examination, the Order shall specify the Time for which such Person shall be committed; and no Person shall be imprisoned for refusing to answer or not fully answering a Question on Examination for a longer Period than *Six* Months.

Title of this Act.

68. For all Purposes this Act may be cited as the "Arrest for "Debt Abolition Act (Ireland) 1867."

Arrest for Debt Abolition (Ireland).

A

BILL

To abolish Arrest for Debt on Mesne and Final Process, except in certain Cases, and to amend the Law of Debtor and Creditor in Ireland.

(*Prepared and brought in by Sir Colman O'Loghlen and Mr. Blake.*)

Ordered, by The House of Commons, *to be Printed, 5 April* 1867.

[Bill 110.]

Under 3 *oz.*

104

Artizans and Labourers Dwellings Bill.

ARRANGEMENT OF CLAUSES.

Clause.

Preamble.

1. Short Title.
2. Application of Act, and Definition of "Local Authority," "Local Rate," and "Clerk of Local Authority."
3. Interpretation of Terms.
4. 8 & 9 Vict. c. 18. and 23 & 24 Vict. c. 106. incorporated.
5. Appointment of Officer of Health.
6. Officer of Health to report as to Condition of Streets.
7. On Representation by Four Householders that Disease exists in a House, Officer of Health to inspect and report.
8. Officer of Health to deliver Copies of Report to Clerk of Local Authority and Clerk of Peace.
9. Clerk of Local Authority to lay Report before Council.
10. Clerk of Peace to lay Report before Grand Jury.
11. Presentment to be preserved by Clerk of the Peace, and certified Copy to be sent to Clerk of Local Authority to be laid before Local Authority.
12. Local Authority to prepare Plan and Specification of required Works.
13. Clerk of Local Authority to give Notice to Owner of Presentment of Grand Jury.
14. Owner may appeal against Presentment.
15. Owner to execute specified Works, or sell Premises to the Local Authority.
16. Service of Notice on Owner whose Name and Residence are known.
17. Service of Notice on Owner whose Name or Residence is not known.
18. Notices to be signed by the Local Authority.
19. If Owner do not execute the Works, Local Authority to execute them.

20. If Owner fail to require Local Authority to purchase, they shall tender Valuation of Premises to be taken down.
21. If Valuation accepted, Premises to be conveyed.
22. If Valuation not accepted, Amount to be assessed by a Jury.
23. Upon Payment or Tender of Purchase Money, Corporation may enter into possession.
24. Provision in case of Disagreement between Owners.
25. Local Authority to pay Compensation when total Demolition required.
26. Determination of Tenancies.
27. House to be improved may be taken down.
28. Appropriation of Property acquired by Local Authority.
29. Account by the Local Authority.
30. Contracts for building, repairing, lighting, watering, &c.
31. Power of Local Authority to make Byelaws for Regulation of Dwelling Houses.
32. Expenses of Local Authority.
33. Loan from Public Works Loan Commissioners.
34. Limit on Expenses of Local Authority.
35. Service of Notice on the Local Authority.
36. Authentication of Notices served by the Local Authority.
37. Forms in Schedule to Act may be used.
38. Penalty for obstructing Officer of Health, &c. in execution of Act.
39. Penalty for preventing Execution of Act.
40. Appearance of Local Authority.
41. Recovery of Penalties.
42. Application of Act to Scotland.
43. Application of Act to Ireland.
44. Jurisdiction of certain Magistrates.

SCHEDULES.

A

BILL

TO

Provide better Dwellings for Artizans and Labourers.

WHEREAS it is expedient to make Provision for taking down or improving Dwellings occupied by Working Men and their Families which are unfit for Human Habitation, and for the building and Maintenance of better Dwellings for such Persons instead thereof: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. In citing this Act it shall be sufficient to use the Words "The Artizans and Labourers Dwellings Act, 1867." Short Title.

2. This Act shall apply only to the Places named in the First Column of Table (A.) in the First Schedule annexed hereto; and "Local Authority," "Local Rate," and "Clerk of Local Authority" shall mean "the Bodies of Persons," "Rate," and "Officer" in that Table in that Behalf mentioned; and the said Table, and the Explanation annexed thereto, shall be of the same Force as if they were enacted in the Body of this Act. Application of Act, and Definition of "Local Authority," "Local Rate," and "Clerk of Local Authority."

Interpretation of Terms.

3. The following Words and Expressions have in this Act the following Meanings, unless excluded by the Subject or Context; (that is to say,)

"Street" and "Square."

The Word "Street" includes any Court, Alley, Street, Square, or Row of Houses:

"Premises."

The Word "Premises" means any Dwelling House or inhabited Building, and the Site thereof, with the Yard, Garden, Outhouses, and Appurtenances belonging thereto or usually enjoyed therewith, also any Building or Erection, whether inhabited or not, situated in or abutting upon or contiguous to or at the Entrance of any Court or Alley:

"Lessee."

The Word "Lessee" means any Person being a Lessee of the Premises for any Term of which not less than Twenty-one Years shall remain unexpired; and wherever in this Act the Word "Owner" is used the same comprises the Lessee (if any) as well as the Owner of the Premises:

"Superior Court" and "Court of competent Jurisdiction."

The Words "Superior Court" and "Court of competent Jurisdiction," or any other like Expression in this Act, shall be read and have Effect as if the Debt or Demand in respect to which the Expression is used were a common Simple Contract Debt, and not a Debt or Demand created by Statute:

"Person."

"Person" shall include a Body of Persons, corporate or unincorporate:

"Quarter Sessions."

"Quarter Sessions" shall include General Sessions, and in Ireland shall mean, in Towns and Boroughs where there are separate Quarter Sessions, the Quarter Sessions of said Boroughs and Towns, and in Boroughs where there are no separate Quarter Sessions, the Quarter Sessions of the Divisions of the Courts in which such Towns or Boroughs shall be situate:

"Officer of Health."

"Officer of Health" shall mean and include Medical Officer of Health, Sanitary Inspector, or Inspector of Nuisances, or any other Officer performing Duties analogous to those which the Officer of Health performs under "The Local Government Act, 1858," or which the Medical Officer exercises under the Act of the Session of the Eighteenth and Nineteenth Year of the Reign of Her present Majesty, Chapter One hundred and twenty, intituled "An Act for the better Local Management of the Metropolis," or which in Scotland the Medical Officer exercises under "The General Police and Improvement (Scotland) Act," or which in Ireland the Officer of Health or Inspector of Nuisances exercises under "The Towns Improvement (Ireland) Act, 1854," or any Act incorporating "The Towns Improvement Clauses Act, 1847:"

"Local Officer," &c.

In all Cases in which the Name of a Local Authority, Local Court, Magistrate, or Officer having any Local Jurisdiction in respect

respect of their or his Office is referred to, without Mention of the Locality to which the Jurisdiction extends, such Reference is to be understood to indicate the Local Authority, Local Court, Magistrate, or Officer having Jurisdiction in that Place within which are situate the Premises or other Subject Matter or any Part thereof to which such Reference applies.

8 & 9 Vict. c. 18. and 23 & 24 Vict. c. 106. incorporated.

4. "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation Act Amendment Act, 1860," save so far as any of the Sections and Provisions of those Acts respectively are expressly varied or excepted by or are inconsistent with the Provisions of this Act, are incorporated with this Act.

Appointment of Officer of Health.

5. If in any Place to which this Act applies there is no Officer of Health within the Meaning of this Act, the Local Authority shall forthwith appoint such an Officer, shall assign him his Duties, and advance him such Salary out of the Local Rate as they think fit. The Local Authority may from Time to Time remove any Officer appointed under this Section, so that they appoint another Officer in his Place.

Officer of Health to report as to Condition of Streets.

6. If in any Place to which this Act applies the Officer of Health find that any Street or any Premises therein is or are unfit for Human Habitation, or in a Condition, State, or Situation injurious, dangerous, or prejudicial to Health, he shall report the same, and that the Powers of this Act ought to be put in force in respect to such Street or Premises, and whether the ascertained Defects can be remedied by structural Alterations and Improvements, or otherwise, or whether such Street or Premises, or any and what Part thereof, ought to be demolished.

On Representation by Four Householders that Disease exists in a House, Officer of Health to inspect and report.

7. If and whenever any *Four* or more Householders living in or near to any Street by Writing under their Hands represent to the Officer of Health that contagious Disease then exists or has frequently existed in any Premises in or near that Street, or that such Premises are in a State likely to engender Disease, he shall forthwith inspect the Premises, and report thereon; but the Absence of any such Representation shall not excuse him from inspecting any Premises and reporting thereon.

Officer of Health to deliver Copies of Report to Clerk of Local Authority and Clerk of Peace.

8. Every Report made under this Act by the Officer of Health shall be made and signed by him in duplicate, and he shall forthwith deliver one of such Reports to the Clerk of the Local Authority, and the other to the Clerk of the Peace in England and Ireland, and to the Clerk of the Court of Burgh Magistrates in Scotland.

 9. The

Clerk of Local Authority to lay Report before Council.

9. The Clerk of the Local Authority shall as soon as possible lay the Report so delivered to him before the Local Authority, and the same shall be recorded on their Minutes, and the Clerk of the Local Authority shall transmit a Copy thereof to the Owner of the Premises comprised in the said Report, and shall give Notice to the Owner that the Report will be taken into consideration by the Grand Jury at the Court of Quarter Sessions specified in the Notice in England or Ireland, or by the Court of the Burgh Magistrates in Scotland.

Clerk of Peace to lay Report before Grand Jury.

10. The Clerk of the Peace or of the Burgh Magistrates shall respectively lay the Report so delivered to him before the Grand Jury at such Court of Quarter Sessions as aforesaid, or before the Court of the Burgh Magistrates, and the Grand Jury or Burgh Magistrates, as the Case may be, shall at that Court take the Report into consideration, and, after (if they think fit) viewing by Members of their Body the Premises specified in the Report, shall make a Presentment or Order thereon according to what they consider the Requirements of the Case.

Presentment to be preserved by Clerk of the Peace, and certified Copy to be sent to Clerk of Local Authority to be laid before Local Authority.

11. Every Presentment or Order made under this Act shall be preserved by the Clerk of the Peace or Clerk of the Burgh Magistrates among the Records of his Office, and he shall forthwith send a Copy thereof, certified under his Hand, to the Clerk of the Local Authority, and the last-mentioned Clerk shall as soon as possible lay such Copy before the Local Authority.

Local Authority to prepare Plan and Specification of required Works.

12. Upon Receipt of the Copy of the Presentment or Order, the Local Authority shall forthwith cause to be made a Survey of the Premises mentioned therein, and prepare or cause to be prepared a Plan and Specification of the Works (if any) required to be executed.

Clerk of Local Authority to give Notice to Owner of Presentment of Grand Jury.

13. The Clerk of the Local Authority shall thereupon forthwith give Notice to the Owner of the Premises of the Presentment of the Grand Jury, or of the Order of the Burgh Magistrates, by forwarding to such Owner a Copy thereof, and informing him that a Plan and Specification of such Works as are required in reference thereto has been prepared, and that such Plan and Specification may, if such Owner think fit, be inspected and transcribed by him or his Agent at the Office of the Clerk of the Local Authority without Charge; and any such Owner may at any Time within Fourteen Days after the Receipt of such Notice state in Writing to the Clerk of the Local Authority any Objection which he may entertain to the said Plan and Specification, or either of them; and if within *Ten* Days thereafter such Owner and the Local Authority cannot agree as to such Plan and Specification, any Matter in difference between them shall be settled by Two Justices in

in Petty Sessions upon the Application of either Party, and the said Justices may make such Order in relation thereto as they may think fit; and if they decide that any Alteration is to be made in the said Plan and Specification the Local Authority shall cause such Alteration to be made accordingly, and the Plan and Specification so amended shall be the Plan and Specification according to which the Works shall be executed.

Owner may appeal against Presentment.

14. Any Owner of Premises included in any Presentment or Order may, if he think fit, appeal against the same to the Court of Quarter Sessions or Court of the Burgh Magistrates held next after the making of the Presentment, but the Appellant shall not be heard in support of the Appeal unless, within *Fourteen* Days after Receipt by him of Notice of the Presentment appealed against, he give to the Clerk of the Local Authority Notice in Writing stating his Intention to appeal, together with a Statement in Writing of the Grounds of Appeal, and shall, within *Two* Days after giving such Notice, enter into a Recognizance before some Justice of the Peace, with sufficient Securities, conditioned to try such Appeal at the said Court, and to abide the Order of and pay such Costs as may be awarded by the Court or any Adjournment thereof; and the Court, upon hearing and finally determining the Matter of the Appeal, may, either with or without the Consent of the respective Parties, vary the Presentment or Order, and may, according to its Discretion, award such Costs to the Party appealing or appealed against as they think proper, and the Determination of the Court in or concerning the Premises shall be conclusive and binding on all Persons to all Intents or Purposes whatsoever: Provided,—

First, that if there be not Time to give such Notice and enter into such Recognizance as aforesaid, then such Appeal may be made to, and such Notice, Statement, and Recognizance be given and entered into for the next Sessions or Court of the Burgh Magistrates at which the Appeal can be heard:

Secondly, that on the Hearing of the Appeal no Grounds of Appeal shall be gone into or entertained other than those set forth in such Statement as aforesaid:

Thirdly, that in any Case of Appeal the Court may, if it thinks fit, state the Facts specially for the Determination, in England or Ireland, of Her Majesty's Court of Queen's Bench, or in Scotland, by Petition to either Division of the Court of Session in which Case it shall be lawful to remove the Proceedings, by Writ of Certiorari or by Petition, into the said Courts of Queen's Bench or Court of Session respectively:

Fourthly, that pending such Appeal no Work shall be done nor Proceedings taken under such Presentment until after the Determination of such Appeal, unless such Appeal cease to be prosecuted.

Owner to execute specified Works, or sell Premises to the Local Authority.

15. Within Three Calendar Months after the Service on the Owner of the Presentment or Order by the Clerk of the Local Authority the Owner shall signify in Writing to the Clerk of the Local Authority whether he is willing to effect the Works required to be executed, or whether he requires the Local Authority to purchase the Premises specified in the Presentment.

Service of Notice on Ownerwhose Name and Residence are known.

16. Where the Owner of the Premises and his Residence or Place of Business are known to the Local Authority, it shall be the Duty of the Clerk of the Local Authority, if the Owner be residing or have a Place of Business in the Place, to give any Notice by this Act required to be served on him to the Owner, or for him, to some Inmate of his Place of Residence or Business within the Place; and if he be not residing in the Place, or has no Place of Business therein, then to send the Notice by Post in a registered Letter addressed to the Owner at his Place of Residence.

Service of Notice on Ownerwhose Name or Residence is not known.

17. Where the Owner of the Premises or his Residence or Place of Business is not known to, or after diligent Inquiry cannot be found by the Local Authority, then the Clerk of the Local Authority may serve the Notice by leaving it, addressed to the Owner, with some Occupier of the Premises, or if there be not an Occupier, then by putting it up on some conspicuous Part of the Premises.

Notices to be signed by the Local Authority.

18. Every Notice required to be given by the Clerk of the Local Authority by this Act may be in Writing or Print, or partly in Writing and partly in Print, and shall be signed by the Clerk of the Local Authority or Deputy appointed by him.

If Owner do not execute the Works, Local Authority to execute them.

19. If the Owner, within the Time limited by this Act for that Purpose, elect to effect the Works required to be executed, such Owner shall within Two Months thereafter commence the Works shown on the Plan and described in the Specification, and proceed with and complete the same within the Time mentioned in the Specification; and if such Owner fail therein in any respect, the Local Authority shall execute the Works, and may for that Purpose, by themselves, their Contractors, Servants, Agents, and Workmen, enter upon the Premises, and the Local Authority may reimburse themselves all Costs and Charges incident to the Execution of such Works by the Sale of the old Materials, so far as the same may extend, or otherwise, as they may see fit, recover the Amount of such Costs and Charges as a Debt due from such Owner by Action in any Court of competent Jurisdiction.

20. If

If Owner fail to require Local Authority to purchase, they shall tender Valuation of Premises to be taken down.

20. If the Owner do not, within the Period herein specified and as herein prescribed, elect to effect the Works required to be executed, or if he require the Local Authority to purchase the Premises, then and in either of such Cases (if the Amount of the Purchase Money or Compensation be not previously agreed upon between the Owner and the Local Authority) the Local Authority shall cause a Valuation of the Premises (including the Site thereof) to be made by Two able practical Surveyors, not being Officers of the Local Authority, and the Clerk of the Local Authority shall send a Copy of such Valuation to the Owner, and notify to him that the Local Authority are willing to purchase the same at the Amount of such Valuation.

If Valuation accepted, Premises to be conveyed.

21. If the Owner agree to accept the Amount of such Valuation, he shall forthwith convey his Interest in the Premises and in the Site thereof to the Local Authority.

If Valuation not accepted, Amount to be assessed by a Jury.

22. If for One Month after the Receipt of a Copy of such Valuation such Owner do not signify in Writing to the Clerk of the Local Authority his Willingness to receive the Amount of such Valuation, or if after diligent Inquiry the Owner cannot be found, the Local Authority shall cause the Amount payable in respect of the Interest of such Owner in the Premises and in the Site thereof to be assessed and paid in the Manner prescribed by "The Lands Clauses Consolidation Act, 1845."

Upon Payment or Tender of PurchaseMoney, Corporation may enter into possession.

23. Upon Payment or Tender to the Party entitled to receive the same of the Amount awarded by the Jury, or upon Payment thereof into the Bank in the Manner prescribed by "The Lands Clauses Consolidation Act, 1845," the Local Authority may enter upon the Premises, and do and execute all Works required by the Plan and Specification.

Provision in case of Disagreement between Owners.

24. In any Case in which there may be Two or more Owners of any Premises in any Street, and all such Parties do not concur in electing to effect the Works required to be executed, then such of those Parties as make such Election may, if they think fit, arrange for the Purchase of the Interest of the other or others of them in the Premises, and the other or others of them shall sell the same at such Price as may be agreed upon between them or settled by Arbitration, and thereupon the Person making such Purchase shall be deemed the Owner for the Purposes of this Act: Provided that if for One Month after Notice in Writing from the Clerk of the Local Authority requiring him so to do the Party electing to effect

the Works do not signify in Writing to the Clerk of the Local Authority his Willingness to make such Purchase, or fails to make Arrangements for such Purchase, then the Local Authority shall proceed in the Execution of this Act in the same Manner as if all of such Owners and Lessees had failed to elect to execute the Works required.

Local Authority to pay Compensation when total Demolition required.

25. If the Requirements of the Presentment or Order involve the total Demolition and not the Improvement of the Premises specified therein, the Owner shall, within *Three* Months after Notice of the Presentment, proceed to take down and remove the Premises, and if such Owner fail therein, then the Local Authority shall proceed to take down and remove the same; and the Local Authority shall pay Compensation for the Damage which may be sustained by such taking down and Removal, including the Value of the Premises and the Site thereof, unless the Owner desire to retain the Site, subject to the Provisions of this Act with reference to the Use thereof, such Compensation to be ascertained and applied as in this Act provided in the Case of the Purchase of any Premises by the Local Authority; and the Site of the said Premises (unless the Owner have elected to retain the Site) shall, on Payment or Tender to the Party entitled to receive the same of the Compensation agreed upon or awarded, or upon Payment thereof into the Bank in the Manner prescribed by "The Lands Clauses Consolidation Act, 1845," absolutely vest in the Local Authority.

Determination of Tenancies.

26. Where at the Time of making the Presentment the Premises specified therein or any Part thereof are or is subject to any Lease of which less than *Twenty-one* Years remain unexpired, or to any Tenancy from Year to Year, or for a Year or for any less Term, the Local Authority shall give Notice to every such Lessee or Tenant, stating the Time at which such Lease or Tenancy will be determined; and if such Lessee or Tenant in the event of the Premises having been purchased by the Local Authority under the Provisions of "The Lands Clauses Consolidation Act, 1845," would have been entitled to Compensation by reason of the determining of his Lease or Tenancy, the Local Authority shall make such Compensation to such Lessee or Tenant for the determining of his Lease or Tenancy as, in case of Difference, may be settled by Two Justices.

House to be improved may be taken down.

27. If the Presentment or Order be that the Premises require Improvement, the Owner, if he think fit, may, instead of effecting the Works required by the Plan and Specification, take down the Premises; but in every such Case, and also in the event of the Owner desiring to retain the Site of the Premises required by the Present-

Presentment or Order to be totally demolished, no House or other Building or Erection shall at any Time thereafter be erected on all or any Part of the Site of the Premises so taken down, without the previous Consent of the Local Authority, and in accordance with Plans and Elevations previously approved by them; and they may at any Time, at the Expense of the Owner thereof, abate or alter any House or other Building or Erection at any Time wholly or partly erected contrary to the Provisions of this Section.

Appropriation of Property acquired by Local Authority.

28. The Local Authority shall hold all Property acquired by them under this Act upon trust to carry into effect some One or more of the Purposes thereof:

The Purposes of this Act shall be deemed to be—

First, the providing by the Construction of new Buildings, or the repairing or Improvement of existing Buildings, the Labouring Classes with suitable Dwellings situate within the Jurisdiction of the Local Authority:

Second, the opening out of closed or partially closed Alleys or Courts inhabited by the Labouring Classes by pulling down any Building, or otherwise leaving such open Spaces as may be necessary to make such Alleys or Courts healthful:

But subject to the aforesaid Trust, the Local Authority may from Time to Time sell, exchange, lease, or otherwise dispose of any Premises acquired by them under this Act: Provided, that if any Property acquired by the Local Authority under this Act shall not within *Seven* Years after the Acquisition thereof be disposed of by way of absolute Sale or of Exchange, or by Lease for a Period of not less than Ninety-nine Years, the whole Estate and Interest of the Local Authority in such Premises shall, subject to any Incumbrances thereon, escheat to the Crown in the same Manner as if they were Land belonging to a Corporation having no Licence to hold the same.

Account by the Local Authority.

29. Every Local Authority shall in every Year present to One of Her Majesty's Principal Secretaries of State, in such Form as he directs, an Account of what has been done by them during the previous Year, with a view to carrying into effect the Purposes of this Act.

Contracts for building, repairing, lighting, watering, &c.

30. A Local Authority may from Time to Time enter into any Contract with any Persons or Companies for building and for altering and enlarging, repairing, and otherwise improving such Workmen's Dwellings forming Part of any Premises held by the said Authority for the Purposes of this Act, and for

lighting and for supplying the same with Water, and for fitting up the same respectively, and for furnishing any Materials and Things, and for executing and doing any other Works and Things necessary for the Purposes of this Act; which Contracts respectively shall specify the several Works and Things to be executed, furnished, and done, and the Prices to be paid for the same, and the Times when the Works and Things are to be executed, furnished, and done, and the Penalties to be suffered in Cases of Nonperformance; and true Copies of all such Contracts shall be entered in Books to be kept for the Purpose: Provided always, that no Contract above the Value or Sum of *One hundred* Pounds shall be entered into by the Local Authority for the Purposes of this Act, unless previous to the making thereof *Fourteen* Days Notice shall have been given in One or more of the public Newspapers published in or circulating within the Jurisdiction of the Local Authority, expressing the Intention of entering into such Contract, in order that any Person willing to undertake the same may make Proposals for that Purpose, to be offered to the Local Authority at a certain Time and Place in such Notice to be mentioned; but it shall not be incumbent on the Local Authority to contract with the Person offering the lowest Price.

Power of Local Authority to make Byelaws for Regulation of Dwelling Houses.

31. The Local Authority may from Time to Time make, alter, and repeal Byelaws for the Regulation of the Dwellings belonging to them under this Act, and there may be imposed by such Byelaws a Penalty, recoverable in a summary Manner, not exceeding Two Pounds for any Breach of the Byelaws by the Tenants or Occupiers of the said Houses. A Copy of such Byelaws shall be given to every Tenant or Occupier upon his taking Possession of every such Dwelling or of any Portion thereof.

Expenses of Local Authority.

32. All Expenses incurred by the Local Authority in pursuance of this Act shall be defrayed by them out of the Local Rate, and it shall be lawful for the Local Authority, notwithstanding any Limit contained in any Act of Parliament respecting any Local Rate, to levy such Local Rate, or any Increase of the same, for the Purposes of this Act; and the Metropolitan Board of Works may levy the Local Rate for the Purposes of this Act within the Metropolis, as described in the Schedule hereto, in the same Manner as if such Metropolis constituted the whole Area within the Jurisdiction of the said Board.

Loan from Public Works Loan Commissioners.

33. The Public Works Loan Commissioners, as defined by the Public Works Loan Act, 1853, may lend to any Local Authority, and any Local Authority may borrow from the said Commissioners, such

such Sums as the said Authority may require for the Purposes of this Act, subject to the following Regulations:

1. The Amount of every Loan shall be sanctioned by the Commissioners of the Treasury:
2. No Loan shall be made except for the Purpose of defraying the Cost of building suitable Dwellings for the Labouring Classes, or of defraying the Cost of purchasing Sites, and of building thereon such Dwellings:
3. Every Loan shall be secured by a Mortgage of certain Dwellings for the Labouring Classes erected or improved, or about to be erected or improved, by a Local Authority, in pursuance of this Act, and of the Sites of such Dwellings, and the Appurtenances, if any, and also by a Mortgage of the Local Rate:
4. Any Sum borrowed on Mortgage under this Section may be paid off by Sale of the Premises comprised in such Mortgage, or by Instalments, or otherwise, as may be agreed upon between the Parties, so that the Period of the Borrowing do not exceed Seven Years:
5. The Amount borrowed by any Local Authority on the Mortgage of any Buildings and Sites and of the Local Rate shall not exceed the estimated Value of the proposed Buildings, including the Sites thereof, comprised in such Mortgage, such Value to be ascertained in manner approved by the said Public Works Loan Commissioners:
6. The Powers conferred by Act of Parliament on the said Public Works Loan Commissioners in relation to Loans shall apply to any Loans made under this Section.

Limit on Expenses of Local Authority.

34. The Local Authority shall not for the Purposes of this Act make an Increase of the Local Rate to an Amount exceeding Threepence in the Pound in any Year, and shall not be compellable to take any Proceedings under this Act for the Purchase of any Premises in Cases where the said Public Works Loan Commissioners are not authorized by this Act to make a Loan on account of such Purchase.

Service of Notice on the Local Authority.

35. Any Summons, Notice, Writ, or other Proceeding at Law or in Equity, or otherwise, in relation to carrying into effect the Objects and Purposes of this Act, required to be served upon the Local Authority, may be lawfully served by delivering the same to the Clerk of the Local Authority, or leaving the same at his Office with some Person employed there by him.

Authentication of Notices served by the Local Authority.

36. Any Notice, Demand, or other written Document served by the Local Authority for the Purposes of this Act may be signed by the Clerk of the Local Authority.

Forms in Schedule to Act may be used.

37. The several Forms set forth in the Second Schedule to this Act annexed, with such Modification (if any) thereof respectively as the Parties using the Forms respectively think expedient, may be used for the several Purposes of this Act for which the same are applicable, and shall accordingly be sufficient for the Purposes of this Act.

Penalty for obstructing Officer of Health, &c. in execution of Act.

38. Where any Person at any Time obstructs the Officer of Health or other Person acting in the Performance of anything which the Local Authority or their Officers respectively are by this Act required or authorized to do, every Person so offending shall for every such Offence forfeit not exceeding *Twenty* Pounds.

Penalty for preventing Execution of Act.

39. If the Occupier of any Premises prevents the Owner thereof, or if the Owner or Occupier of any Premises prevents the Officer of Health, or their Officers, Agents, Servants, or Workmen, from carrying into effect with respect to the Premises any of the Provisions of this Act, after Notice of the Intention so to do has been given to the Occupier, or, as the Case shall be, to the Owner, any Justice on Proof thereof may make an Order in Writing requiring the Occupier to permit the Owner, or, as the Case shall be, requiring the Owner or Occupier, or both, to permit the Officer of Health, or the Local Authority, and their Officers, Agents, Servants, and Workmen, to do all things requisite for carrying into effect with respect to the Premises the Provisions of this Act; and if at the Expiration of *Ten* Days after the Service of such Order of the Justice the Occupier or Owner fails to comply therewith, every Person so offending shall for every Day during which the Failure continues forfeit not exceeding *Twenty* Pounds: Provided that during any such Failure by the Occupier the Owner, unless assenting thereto, shall not be liable to the Forfeiture.

Appearance of Local Authority.

40. The Local Authority may appear before any Judge, Justices, Borough Magistrates, Sheriff, or Sheriff Substitute, by their Clerk, and any Company or Body Corporate may appear before the said Magistrate or Magistrates by any Member of their Board of Management, or by any Officer authorized in Writing under the Hand of any Director or Manager of the Company.

Recovery of Penalties.

41. Penalties under this Act may be recovered before Two Justices in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three, intituled "An Act "to facilitate the Performance of the Duties of Justices of the "Peace out of Sessions within England and Wales with respect "to summary Convictions and Orders," or any Act amending the same; and in Scotland by summary Complaint before the Sheriff, Sheriff

Sheriff Substitute, or Two Justices, or in Boroughs, before the Magistrates, in manner provided by "The Summary Procedure Act, 1864," and in Ireland in manner directed by "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same.

Application of Act to Scotland.

42. For the Purpose of adapting this Act to Scotland, the following Alteration shall be made; that is to say,

1. "The Lands Clauses Consolidation Act (Scotland), 1845," shall be substituted for "The Lands Clauses Consolidation Act, 1845:"
2. An Order of the Court of the Magistrates of the Burgh at which not less than Two Thirds of the Magistrates shall be present, or of a Sheriff or Sheriff Substitute, shall be substituted for the Presentment of a Grand Jury, and all the Judicial Powers given to Justices in Quarter Sessions by this Act may also be exercised by Sheriffs of Counties or Sheriff Substitutes:
3. Everything competent to be done by the Clerk of the Court of the Burgh Magistrates in Burghs under this Act may be done by the Sheriff's Clerk of the County for Places within the County which are not Burghs.

Application of Act to Ireland.

43. For the Purpose of adapting this Act to Ireland, the Words "The Lands Clauses Consolidation Act, 1845," shall mean "The Railways Act, Ireland, 1851," and the several Acts amending the same.

Jurisdiction of certain Magistrates.

44. Any Act, Power, or Jurisdiction hereby authorized to be done or exercised by Two Justices may be done or exercised by the following Magistrates within their respective Jurisdictions; that is to say: As to England, by any Metropolitan Police Magistrate or other Stipendiary Magistrate sitting alone at a Police Court or other appointed Place, or by the Lord Mayor of the City of London, or any Alderman of the said City, sitting alone or with others, at the Mansion House or Guildhall; as to Scotland, by the Sheriff or Sheriff Substitute, or by any Two Magistrates of a Burgh; and as to Ireland, by any One or more Divisional Magistrates of Police in the Police District of Dublin, and elsewhere by One or more Justice or Justices of the Peace in Petty Sessions.

SCHEDULES.

FIRST SCHEDULE.

TABLE A.

ENGLAND AND WALES.

Places to which Act applies.	Description of Local Authority.	Description of Local Rate.	Description of Clerk of Local Authority.
The City of London and the Liberties thereof. Local Acts { 11 & 12 Vict. c. 163. 14 & 15 Vict. c. 91.	Commissioners of Sewers of the City of London. Local Act 11 & 12 Vict. c. 163.	The Consolidated Rate 11 & 12 Vict. c. 163. s. 158.	The Clerk to the Commissioners. 11 & 12 Vict. c. 163. s. 25.
The Metropolis - -	The Metropolitan Board of Works.	Rate to be levied in the Metropolis in the same Manner as the Rate leviable by Law for defraying the general Expenses of the Board. 25 & 26 Vict. c. 120. s. 5.	Clerk of the Metropolitan Board of Works.
Boroughs, with the Exception of the Borough of Cambridge, not within the Jurisdiction of such Local Board as aforesaid.	The Mayor, Aldermen, and Burgesses, acting by the Council.	The Borough Fund or other Property applicable to the Purposes of a Borough Rate or the Borough Rate.	The Town Clerk.
The Borough of Cambridge, and any Town not included in the above Descriptions, and under the Jurisdiction of Commissioners, Trustees, or other Persons entrusted by any Local Act with Powers of improving, cleansing, or paving any Town.	The Commissioners, Trustees, or other Persons entrusted by the Local Act with Powers of improving, cleansing, or paving the Town.	Any Rate leviable by such Commissioners, Trustees, or other Persons, or other Funds applicable by them to the Purposes of improving, cleansing, or paving the Town.	The Clerk of the Commissioners or Trustees or other Persons or other Officer performing the Duties of Clerk.
Places within the Jurisdiction of Local Boards, constituted in pursuance of the Public Health Act, 1848, and the Local Government Act, 1858, or One of such Acts.	The Local Board -	General District Rate 11 & 12 Vict. c. 63. s. 87.	Clerk of the Local Board or other Officer performing Duties of Clerk. 11 & 12 Vict. c. 63. s. 37.

Places to which Act applies.	Description of Local Authority.	Description of Local Rate.	Description of Clerk of Local Authority.
SCOTLAND.			
Burghs - - -	The Magistrates and Town Council.	The Revenue of the Burgh or the Local Rate leviable for Prison Purposes under 23 & 24 Vict. c. 105., or any other Local Rate leviable by the Town Council.	Town Clerk.
Places where Police Commissioners or Trustees exercise the Functions of Police Commissioners acting under "The General Police and Improvement (Scotland) Act," or Trustees or Commissioners acting under any General or Local Act.	The Police or other Commissioners or Trustees.	Property or Rate belonging to or leviable by the Commissioners or Trustees.	Clerk of the Commissioners or Trustees or any other Officer performing the Duties of Clerk.
IRELAND.			
The City of Dublin -	The Right Honourable the Lord Mayor, Aldermen, and Burgesses, acting by the Council.	The Borough Fund or Borough or Improvement Rate.	The Town Clerk.
Towns Corporate or Boroughs (with the Exception of the City of Dublin).	The Mayor, Aldermen, and Burgesses, acting by the Council.	The Borough Fund, or Town Fund, or Borough Rate.	The Town Clerk.
Towns having Town Commissioners under 9 G. 4. c. 82. or 17 & 18 Vict. c. 103., or any Acts amending the same, or having Commissioners or other Governing Body under any Local Act.	The Town Commissioners or other Governing Body.	Any Rate leviable by these Bodies, or any Fund belonging to them applicable in the whole or in part to the making or repairing of Sewers within their Jurisdiction.	The Clerk of the Commissioners or other Governing Body.

Explanation.

For the Purposes of this Act the following Words shall have the Meanings herein-after assigned to them; that is to say,

(1.) "The Metropolis" shall not include the City of London or the Liberties thereof, but shall include all other Parishes or Places within the Jurisdiction of the Metropolitan Board of Works.

(2.) "The Metropolis Local Management Act" shall mean the Act of the Session of the Eighteenth and Nineteenth Years of the Reign of Her present Majesty, Chapter One hundred and twenty, intituled "An Act for the better Local Management of the Metropolis."

(3.) "Borough" in England shall mean any Place for the Time being subject to the Act passed in the Session holden in the Fifth and Sixth Years of the Reign of King William the Fourth, Chapter Seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations "in England and Wales."

(4.) "Burgh" in Scotland shall mean any Place returning or contributing to return Members to Parliament.

(5.) "Borough" in Ireland shall mean any Place for the Time being subject to the Act passed in the Session of the 3d and 4th Years of the Reign of Her present Majesty, Chapter One hundred and eight, and intituled "An Act for the Regulation of Municipal Corporations in Ireland."

SECOND SCHEDULE.

I. *Form of Presentment by Grand Jury, or Court of Burgh Magistrates in Scotland.*

The Jurors for our Lady the Queen upon their Oath present that [ ] [*or as the Case may be*] One or more House or Houses or Buildings situate in or abutting upon or contiguous to or at the Entrance of a certain Court or Alley within the Borough or Burgh, known or designated as Court or Alley [*or otherwise distinguishing the Premises*], and specified in the Report of the Officer of Health for the dated the Day of 18 is or are unfit for Human Habitation, and ought to be improved or demolished [*as the Case may be*], in pursuance of "The Artizans and Labourers Dwellings Act, 1866."

II. *Form of Notice by Clerk of the Peace or Clerk of the Court of Burgh Magistrates in Scotland to Clerk of Local Authority.*

Artizans and Labourers Dwellings Act, 1866.

I, *A.B.*, Clerk of the Peace [*or* Clerk of the Court of Burgh Magistrates] for the , do hereby certify, That on the Day of 18 the Grand Jury at the Sessions for the [*or* Court of the Burgh Magistrates] [*as the Case may be*] made a Presentment, of which the following is a true Copy.

[*Here give a Copy of the Presentment*, Form I.]

As witness my Hand, this Day of in the Year of our Lord 18 .

(Signed) (*A.B.*) Clerk of the Peace for
[*or* Clerk of the Court of Burgh Magistrates].

To the Clerk of the
of .

Dwellings.

A

BILL

To provide better Dwellings for Artizans and Labourers.

(*Prepared and brought in by Mr. M^c^Cullagh Torrens, Mr. Kinnaird, and Mr. Locke.*)

Ordered, by The House of Commons, *to be Printed*, 12 *February* 1867.

[Bill 14.]

Under 3 *oz.*

Associations of Workmen.

A

BILL

TO

Exempt Associations of Workmen from certain Disabilities for a limited Time.

Preamble. 18 & 19 Vict. c. 63.

WHEREAS Doubts have arisen as to how far and in what Cases Associations of Workmen not certified under the Act Eighteenth and Nineteenth Victoria, Chapter Sixty-three, are entitled to any Benefit under that Act:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Associations of Workmen not to forfeit Benefit of recited Act on the Ground that their Rules are in Restraint of Trade.

1. From and after the *passing of this Act*, until the End of the next Session of Parliament, no such Association of Workmen shall forfeit any Right or Benefit to which they might otherwise have been entitled under the Forty-fourth Section of the said Act by reason of any Rules or Rule of such Association being in Restraint of Trade, provided that such Rules or Rule do not prescribe or recommend the Performance of any Act made subject to any Statutory Penalty.

A

BILL

To exempt Associations of Workmen from certain Disabilities for a limited Time.

(*Prepared and brought in by Mr. Neate and Mr. Thomas Hughes.*)

Ordered, by The House of Commons, *to be Printed,* 14 *February* 1867.

[Bill 21.]

Under 1 *oz.*

A

BILL

TO

Reduce the annual Duty upon the Certificates of Attorneys and Solicitors and others.

WHEREAS it is expedient to reduce the Stamp Duties now payable in respect of the Certificates required to be taken out yearly by Attorneys, Solicitors, and other Persons herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Stamp Duty on annual Certificate of an Attorney, &c. repealed, and Duty granted in lieu thereof.

1. From and after *the passing of this Act* the Stamp Duties now payable for or in respect of the Certificate to be taken out yearly by every Person admitted as an Attorney or Solicitor in any of Her Majesty's Courts at Westminster, or in Ireland, or in any other Court in England or Ireland holding Pleas, where the Debt or Damage amounts to Forty Shillings; and by every Person admitted as a Writer to the Signet, or as a Solicitor, Agent, Attorney, or Procurator in any of the Courts in Scotland; and by every Person admitted or enrolled as a Notary Public in England, Scotland, or Ireland, who in his own Name or in the Name of any other Person

shall commence, prosecute, carry on or defend any Action, Suit, Prosecution, or other Proceeding in any of the Courts aforesaid, or do any notarial Act whatever, for or in expectation of any Fee, Gain, or Reward, as an Attorney, Solicitor, Agent, Proctor, Procurator, or Notary Public, although not admitted or enrolled as such, shall be repealed; and in lieu thereof there shall be granted, raised, levied, collected, and paid in and throughout the United Kingdom of Great Britain and Ireland, to and to the Use of Her Majesty, Her Heirs, and Successors, for and in respect of such Certificate, a Duty of *Five Shillings*.

The new Duty to be denominated Stamp Duty, and be under the Care of Commissioners of Inland Revenue.

Powers and Provisions of former Acts to apply.

2. The Duty by this Act granted shall be denominated and deemed to be Stamp Duty, and shall be under the Care and Management of the Commissioners of Inland Revenue for the Time being; and all the Powers, Provisions, Clauses, Regulations, Directions, Allowances and Exemptions, Fines, Forfeitures, Pains and Penalties, contained in or imposed by any Act or Acts, or Schedule thereto, relating to any Duty of the same Kind or Description heretofore payable in Great Britain and Ireland respectively, and in force at the Time of *the passing of this Act*, shall respectively be in full Force and Effect with respect to the Duty by this Act granted, and to the Persons liable to the Payment thereof, so far as the same are or shall be applicable, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the Duty hereby granted, and otherwise in relation thereto, as fully and effectually to all Intents and Purposes as if the same had been herein repeated and specially enacted mutatis mutandis with reference to the Duty by this Act granted.

23 & 24 Vict. c. 127. s. 19. and 29 & 30 Vict. c. 84. s. 33. to continue in force as to Declaration and Certificate.

3. Notwithstanding the Substitution by this Act of One Duty in lieu of the different Rates of Duty heretofore payable, Section 19 of the Act of the Session holden in the Twenty-third and Twenty-fourth Years of Her Majesty, Chapter One hundred and twenty-seven, and Section 33 of "The Attorneys and Solicitors Act (Ireland) 1866" respectively, shall continue in force as to the Contents and Forms of the Declaration and Certificate therein respectively mentioned.

Attorneys, &c. Certificate Duty.

A

BILL

To reduce the annual Duty upon the Certificates of Attorneys and Solicitors and others.

(*Prepared and brought in by Mr. Denman, Mr. Vance, and Sir John Ogilvy.*)

Ordered, by The House of Commons, to be *Printed*, 26 *February* 1867.

[Bill 53.]

Under 1 *oz.*

A

B I L L

TO

Render perpetual an Act passed in the Session holden in the Twenty-seventh and Twenty-eighth Years of Her present Majesty, intituled "An Act to permit, for a limited Period, Compositions for Stamp Duty on Bank Post Bills of Five Pounds and upwards in Ireland."

WHEREAS by an Act passed in the Session holden in the Twenty-seventh and Twenty-eighth Years of the Reign of Her present Majesty, Chapter Eighty-six, intituled "An Act to permit, for a limited Period, Compositions for Stamp Duty on Bank Post Bills of Five Pounds and upwards in Ireland," the Commissioners of Her Majesty's Treasury are empowered to compound and agree, in manner therein mentioned, with any Banker in Ireland for a Composition in lieu of the Stamp Duties payable on the Bank Post Bills to be made or drawn by such Banker at any Time during the Period of Three Years from the passing of the said Act for any Sum of Money amounting to Five Pounds and upwards: 27 & 28 Vict. c. 86.

And whereas it is expedient to make perpetual the Powers conferred by the said Act:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Powers of 27 & 28 Vict. c. 86. made perpetual.

1. The Powers conferred by the said Act of the Session of the Twenty-seventh and Twenty-eighth Years of the Reign of Her present Majesty shall be perpetual, and the said Act shall be construed as if the Words "during the Period of Three Years from the passing of "this Act" had been omitted therefrom.

Short Title.

2. This Act may be cited for all Purposes as "The Stamp Duty Composition (Ireland) Act, 1867."

(Ireland).

A

BILL

To render perpetual an Act passed in the Session holden in the Twenty-seventh and Twenty-eighth Years of Her present Majesty, intituled "An Act to permit, for a limited "Period, Compositions for Stamp "Duty on Bank Post Bills of Five "Pounds and upwards in Ireland."

(*Prepared and brought in by Mr. Hunt and Mr. Chancellor of the Exchequer.*)

Ordered, by The House of Commons, *to be Printed*, 24 *July* 1867.

[Bill 281.]

Under 1 *oz.*

Bankruptcy Bill.

ARRANGEMENT OF CLAUSES.

Clauses.	Provisions of Acts and Bills.*
PART I.—PRELIMINARY.	
1. Division of Act.	
2. Short Title.	
3. Commencement.	
4. Extent of Act.	
5. Application of Act to future Bankruptcies -	1849, s. 4. 1866, §§ 2, 4, 5.
6. Definition of Traders - - - - -	1849, s. 65. 1866, § 326.
7. Tender, &c. equal to Payment.	
8. Computation of Time - - - -	1849, s. 276. 1861, s. 229. 1866, § 326.
9. Interpretation.	
PART II.—JURISDICTION IN BANKRUPTCY; COURTS AND OFFICERS.	
Distribution of Jurisdiction.	
10. Jurisdiction in Bankruptcy.	
11. Court of Appeal - - - - -	14 & 15 Vict. c. 83. s. 7. 1866, § 12.
12. Appeal to House of Lords - - - -	1849, s. 18. 14 & 15 Vict. c. 83. s. 10. 1866, § 13.
Courts and Officers.	
1. Court of Bankruptcy in London.	
13. Establishment of Court in London.	
14. First Judges, &c. of Court.	
15. Tenure of Office of Judges.	
16. Appointment of Judges - - - -	1866, § 15.
17. Tenure of Office of Registrars, &c. - - -	1831, s. 9. 1854, s. 3. 1861, s. 8. 1866, § 16.

* The Short References are as follows:—
1831.—1 & 2 Will. 4. c. 56.—Court of Bankruptcy.
1835.—5 & 6 Will. 4. c. 29.—Investment in Securities, &c.
1844.—7 & 8 Vict. c. 96.—Bankruptcy, &c.
1849.—12 & 13 Vict. c. 106.—Bankrupt Law Consolidation.
1854.—17 & 18 Vict. c. 119.—Bankruptcy.
1856.—19 & 20 Vict. c. 79.—Bankruptcy, Scotland.
1859.—Debtor and Creditor Bill, H.L. (As amended on Report.) 11th March 1859.
1861.—24 & 25 Vict. c. 134.—Bankruptcy and Insolvency.
1866.—Bankruptcy Law Amendment Bill, H.C. (As amended in Committee.) 30th July 1866.

Clauses.	Provisions of Acts and Bills.
18. Appointment of Registrars - - -	15 & 16 Vict. c. 77. s. 3. 1866, § 16.
19. Appointment of future Taxing Master - -	1844, s. 45. 1866, § 23.
20. Appointment of Provisional Trustee.	
21. Appointment of Messenger.	
2. Country District Courts of Bankruptcy.	
22. Establishments of Country District Courts of Bankruptcy.	
23. Vacancies not to be filled.	
24. Disposal of Business.	
25. Provision for Vacancies.	
26. Provisional Trustee in Country Districts.	
3. County Courts.	
27. Provisional Trustee in County Court.	
28. Messenger in County Court - - -	1861, s. 11.
Abolition of Offices.	
29. Enumeration of abolished Officers -	1861, s. 12. 1866, §§ 31, 36.
30. Transfer of Duties of Accountant in Bankruptcy -	1861, s. 12. 1866, § 31.
Powers and Duties of Courts and Officers.	
31. Powers, &c. of Court of Bankruptcy - - -	1849, s. 6. 1861, s. 1. 1866, § 6.
32. Jurisdiction of Court of Bankruptcy and County Courts - - - - -	1849, s. 12.
33. Each Judge, &c. to form Court, and Powers of County Court Judges.	1849, s. 6.
34. Power for Judges to sit together.	
35. Enforcement of County Court Orders.	
36. Orders in Bankruptcy to have effect of Judgments	1849, s. 248. 18 & 19 Vict. c. 15. s. 10. 1861, ss. 213, 214. 27 & 28 Vict. c. 112. s. 2. 1866, §§ 12. 58.
37. Order for Costs - - - -	1861, s. 213. 1866, § 58.
38. Courts to be auxiliary - - - -	1849, s. 21. 1861, s. 220. 1866, § 70.
39. Applications when County Courts not sitting.	
40. Power for Registrar to act for Judge or Commissioner.	1849, s. 27. 1866, § 21.
41. County Court Registrars - - - -	1861, s. 10. 1866, § 19.
42. Power for Registrars to act for each other, &c. -	1849, s. 30. 1854, s. 7.

Clauses.	Provisions of Acts and Bills.
43. Substitute in Illness, &c. of Registrar - -	1854, ss. 7, 8. 1866, § 22.
44. Seal of Court of Bankruptcy - - -	1849, s. 29.
45. Sittings of Court - - - - -	1861, ss. 48, 49. 1866, § 46.
46. Judges of Court of Bankruptcy to sit at Chambers	1859, §§ 150–155. 1861, ss. 51, 52. 1866, §§ 47, 48.
47. Jurisdiction in Chambers.	
48. Registrars to attend Judge at Chambers.	
49. Sittings of Registrars at Chambers.	
50. Application to Judge as to Order of Registrar.	
51. Summons at Chambers.	
52. Taxation in Country - - - -	1861 s. 14. 1866, § 25.
53. Reference from Country to Taxing Master -	1861, s. 14. 1866, § 25.
54. Bills to be taxed by Taxing Master - - -	1861, s. 13. 1866, § 24.
55. Taxation of Charges - - - -	1856, s. 125. 1866, § 207.
56. Security, &c. of Provisional Trustee - - -	1849, ss. 38, 44. 1854, s. 11.
57. Duties, &c. of Messenger.	
58. Solicitors - - - - - -	1849, s. 247. 1861, s. 212. 1866, § 57.
59. Restriction on Registrar, &c., acting as Solicitor -	1866, 57.
Appeal.	
60. Powers of Court of Appeal - - - -	1849, s. 13. 14 & 15 Vict. c.83. 1861, ss. 59. 60. 1866, § 12.
61. Appeal subject to General Orders - - -	1849, ss. 12, 17. 1861, s. 66. 1866, §§ 76, 77.
62. Time for Appeal.	
63. Proceedings not to be stayed by Appeal - -	1866, § 78.
PART III.—ACTS OF BANKRUPTCY IN GENERAL.	
64. Nonpayment of Judgment Debt after Summons -	1859, § 47. 1861, ss. 83, 84. 1866, § 126.
65. Going or remaining abroad, fraudulent Conveyance with Intent, &c.	1849, s. 67. 1861, s. 70. 1866, § 95.
66. Lying in Prison - - - - -	1849, s. 69. 1861, s. 71. 1866, § 96.
67. Escaping out of Custody or Prison - -	1849, s. 69. 1861, s. 71. 1866, § 96.
68. Compounding with Petitioning Creditor - -	1849, s. 71. 1866, § 100.

Clauses.	Provisions of Acts and Bills.
69. Petition by Debtor against himself out of England	1849, s. 75. 1861, s. 75. 1866, § 95.
70. Adjudication against Debtor out of England	1861, s. 75. 1866, § 98.
71. Trader absenting himself, beginning to keep House, &c.	1849, s. 67. 1861, § 99.
72. Seizure and Sale in Execution of Property of Trader.	1861, s. 73. 1866, § 101.
73. Trader having Privilege of Parliament not entering Appearance to Action within Month, &c.	1849, s. 77.
PART IV.—TRADER-DEBTOR SUMMONS	1849, ss. 78–86.
74. Notice to Trader and Affidavit of Debt.	1866, §§ 102–108.
75. Summons to Trader.	
76. Non-appearance of Trader.	
77. Requisition by Court on Appearance of Trader.	
78. Admission of whole Demand.	
79. Denial of whole Demand.	
80. Admission of Part and Denial of Residue.	
81. Refusal to sign Admission to be deemed Denial.	
82. Bond for Demand or Part denied.	
83. Limitation of Time for Petition.	
84. Enlargement of Time by Court.	
85. Admission of Demand out of Court.	
86. Notice, &c. in Case of Partnership.	
87. Costs of Proceedings in Court.	
88. Costs of Action.	
PART V.—DECLARATION OF INSOLVENCY.	
89. Filing of Declaration of Insolvency	1849, s. 70. 1861, s. 72. 1866, § 97.
90. Provisional Trustee to be Receiver.	
91. Stay of Actions.	
92. Notice in Gazette.	
93. Executions, &c. stayed.	
94. List of Creditors and Property.	
95. Inspection of List and Statement.	
96. Declaration to be Act of Bankruptcy in certain Cases.	
97. Saving for intermediate Transactions.	
PART VI.—ADJUDICATION.	
Petition.	
98. Petition for Adjudication	1849, s. 89. 1861, s. 87. 1866, § 111.
Court.	
99. Court for Commencement of Proceedings.	
100. Transfer by Creditors.	
101. Transfer by Court	1866, § 140.
102. Jurisdiction and Procedure on Transfer	1866, §§ 141, 142.

Clauses.	Provisions of Acts and Bills.
Creditor's Petition.	
103. Amount of petitioning Creditor's Debt - -	1849, s. 91. 1861, s. 89. 1866, § 109.
104. Creditor for Sum not payable - - -	1849, s. 91. 1861, s. 89.
105. Petition against One or more of Partners -	1849, s. 97. 1866, § 129.
106. Verification of Creditor's Petition - -	1849, s. 89. 1861, s. 87, 92. 1866, §§ 111, 128.
107. Witnesses to prove Trading and Act of Bankruptcy	1849, s. 100.
108. Adjudication on Creditor's Petition - -	1849, s. 101. 1866, § 116.
109. Limitation for Adjudication after Act of Bankruptcy	1849, s. 88. 1866, § 109.
110. Date of Petitioning Creditor's Debt against Non-Trader.	1861, s. 90.
111. Proceedings on Creditor's Petition against Non-trader departing, &c.	1861, s. 70. 1866, §§ 114, 116.
Debtor's Petition.	
112. Petition by Debtor - - - -	1849, s. 101.
113. Statement of Debts, Property, &c. by Debtor petitioning.	1861, s. 93.
114. Adjudication on Debtor's Petition - -	1849, s. 101.
Proceedings on Petition.	
115. Time for Proceeding by Petitioner and Substitution of other Petitioner.	1849, s. 101. 1861, s. 96. 1866, § 117.
116. Dismissal of Petition against One or more - -	1849, s. 97. 1866, § 129.
117. Substitution on Insufficiency of petitioning Creditor's Debt.	1849, s. 103.
118. Power for Court to order Satisfaction for malicious Petition, &c.	1849, s. 267.
119. Petitioning Creditor compounding - -	1849, s. 268. 1866, § 247.
120. Petitioning Creditor's Costs - - -	1849, s. 114. 1866, § 118.
121. Validity of Adjudication, notwithstanding prior Act of Bankruptcy.	1849, s. 88. 1866, § 109.
122. Death of Bankrupt - - - - - -	1849, s. 116. 1866, § 117.
123. Subsequent Petition against a Member or Members of same Partnership.	1849, s. 98. 1866, § 130.
124. Power to consolidate, &c. Proceedings on Petitions -	1861, s. 18. 1866, § 138.
125. Concerted Act of Bankruptcy - - - -	1849, s. 115. 1866, § 131.
126. Submission to Adjudication - - - -	1866, § 133.
127. Showing Cause against Adjudication - -	1849, s. 104. 1859, § 76. 1866, §§ 132, 133.

Clauses.	Provisions of Acts and Bills.
128. Gazette Notice of Adjudication.	
129. Consent to Notice of Adjudication.	
130. Application to annul - - - -	1849, s. 233. 1866, § 134.
131. Order of Adjudication conclusive.	
132. Time for Surrender.	
133. Power to dispense with personal Appearance for Surrender.	1859, § 77.
134. Surrender after Apprehension - - -	1849, s. 161.
135. Protection of Bankrupt in coming to Surrender, &c. -	1849, s. 112.
136. Bringing up of Bankrupt when in Custody - -	1849, s. 112.
137. Discharge of Bankrupt on Production of Protection -	1849, s. 113.
138. Warrant of Arrest and Seizure against Person about to quit England, &c.	1849, s. 99. 1866, § 135.
PART VII.—CHOICE OF TRUSTEE AND INSPECTORS -	1856, ss. 67–76. 1866, §§ 143–155.
139. Appointment of First Meeting of Creditors.	
140. Gazetting of Notice for Meeting.	
141. Registrar to attend Meeting.	
142. Choice of Trustee.	
143. Security and Remuneration of Trustee.	
144. Confirmation or Rejection by Court.	
145. Choice of Inspectors.	
146. Resignation or Removal of Trustee.	
147. Appointment of new Trustee.	
148. Choice of new Inspector.	
149. Regularity of Proceedings notwithstanding Want of Inspection.	
150. Creditors in Cases of Partnership.	
PART VIII.—SECURED CREDITORS; MEETINGS.	
151. Rights of secured Creditor - - - -	1856, s. 59. 1866, § 175.
152. Rules respecting Meetings - - - -	1856, ss. 101, 63. 1861, s. 229. 1866, § 204.
153. Creditors to act at Meeting.	
154. Holding of Meetings - - - -	1856, ss. 96. and foll. 1866, § 200.
155. Notices of Meetings - - - - -	1856, ss. 99, 100. 1866, § 203.
156. Special Meetings.	
PART IX.—LAST EXAMINATION AND ACCOUNTS.	
157. Last Examination - - - - -	1861, s. 140.
158. Adjournment of last Examination sine die - -	1849, s. 162.
159. Bankrupt's Statement of Accounts - - -	1861, s. 141.
160. Assistance in preparing Statement to Bankrupt in Custody.	1849, s. 163.

Clauses.	Provisions of Acts and Bills
161. Statement of Accounts open to Creditors	1861, s. 142.
162. Trustee's Report on State of Bankrupt's Affairs	1861, s. 143.
163. Examination of Statements of Account, and List of Creditors.	1861, s. 147.
PART X.—ORDER OF DISCHARGE	1849, ss. 198–207. 1859, §§ 125–142. 1861, ss. 157–172. 1866, §§ 279–289.
164. Order of Discharge.	
165. Notice of and Opposition to Application.	
166. Inquiry into Bankrupt's Conduct.	
167. Suspension of Order of Discharge.	
168. Order to take Effect from Date.	
169. Suspension not to run after Punishment for Misdemeanour.	
170. Plea of Discharge.	
171. Discharge from Custody on subsequent Arrest.	
172. Contract after filing of Petition.	
173. Operation of Discharge on Process for Contempt.	
174. Exception of Crown Debts, &c.	
175. Exception of Joint Debtors.	
176. Contract with Creditor not to oppose.	
177. Time for drawing up of Order.	
178. Review and Rehearing.	
179. Protection of subsequent Creditors.	
180. Forfeiture for Inducement to forbear Opposition, &c.	
PART XI.—CONSEQUENCES OF ADJUDICATION WITH RESPECT TO PROPERTY.	
181. Vesting of Personal Property in Trustee	1849, s. 141. 1866, § 221.
182. Recovery of Personal Property and Debts, &c.	1849, s. 141. 1866, § 221.
183. Retention of excepted Articles	1854, s. 25.
184. Vesting of Real Property in Trustee	1849, s. 142. 1866, § 213.
185. Registration of Order of Confirmation, &c.	1849, s. 143. 1866. § 214.
186. Application of Fines and Recoveries Act	1849, s. 208. 1866, § 215.
187. Vesting Order as to Copyholds	1849, s. 209. 1859, §§ 118, 119, 120. 1861, s. 114. 1866, § 216.
188. Leases and Conveyances at Rent	1849, s. 145 1861, s. 131. 1866, § 217.
189. Agreement for Purchase	1849, s. 146. 1866, § 217.
190. Transfer of Stock	1849, s. 128. 1866, § 222.
191. Payment of Money by Agent	1849, s. 132. 1866, § 222.

Clauses.	Provisions of Acts and Bills.
192. Order of Court for Payment of Amount admitted on Examination.	1849, s. 123. 1866, § 235.
193. Order and Disposition - - - - -	1849, s. 125. 1866, § 234.
194. Conveyances, &c. made by Bankrupt while embarrassed	1849, s. 126. 1866, § 237.
195. Fraudulent Extents in aid - - - -	1849, s. 127. 1866, § 238.
196. Restriction on Execution of Powers - - -	1866, § 219.
197. Execution of Powers - - - -	1849, s. 147. 1866, § 218.
PART XII.—POSSESSION, COLLECTION, AND MANAGEMENT OF ESTATE.	
198. Certificate of Office of Provisional Trustee.	
199. Possession by Provisional Trustee - - -	1861, s. 108.
200. Messenger to follow Instructions of Provisional Trustee.	1854, s. 23.
201. Powers and Duties of Provisional Trustee.	
202. Transfer from Provisional Trustee to Trustee.	
203. Management, &c. of Estate - - - -	1856, s. 82. 1866, § 206.
204. Delivery of Documents to Trustee - - -	1849, s. 105. 1866, § 205.
205. Seizure of Property in Prison, &c. - - -	1849, s. 109. 1866, § 230.
206. Execution of Search Warrant - - -	1849, s. 109. 1866, § 230.
207. Search Warrant - - - - -	1849, s. 106. 1866, § 228.
208. Execution of Search Warrant in Scotland or Ireland -	1848, s. 110, 111. 1866, § 231.
209. Execution of Search Warrant in Place not specified -	1859, § 81.
210. Concealing Bankrupt's Property - - -	1849, s. 269. 1866, § 236.
211. Reward for Discovery of Property - -	1849, s. 269. 1866, § 236.
212. Suits for and Application of Forfeitures - -	1849, s. 275. 1866, § 323.
213. Post Letters addressed to Bankrupt - -	1849, s. 124. 1866, § 194.
214. Management of Estate by Bankrupt - - -	1849, s. 150.
215. Compromise, Arbitration, &c. - - -	1849, s. 153. 1866, § 249.
216. Actions and Suits by Trustee - - -	1849, s. 153. 1865, 249.
217. Suits by Trustee and Bankrupt's Partners - -	1849, s. 152. 1866, § 250.
218. Non-abatement of Actions, &c. by Change in Trustee -	1849, s. 157. 1866, § 252.
219. Payment of Money into Court - - -	1849, s. 158. 1866, § 253.
220. Indemnity for Payments in Actions, &c. - -	1849, s. 155. 1866, § 251.
221. Indemnity for Payments without Action, &c. -	1849, s. 155. 1866, § 251.

Clauses.	Provisions of Acts and Bills.
222. Life Estates in Remainder, &c. - - -	1861, s. 115. 1866, § 220.
223. Bankrupt to join in Conveyances - - -	1849, s. 148.
224. Restriction on Impeachment of Title - - -	1849, s. 131. 1866, § 223.
225. Power to mortgage or pledge Bankrupt's Property -	1861, s. 133. 1866, § 232.
226. Power to sell Book Debts, Goodwill, &c. - -	1861, s. 137. 1866. § 232.
227. Disposition of Crop, Manure, &c. - - -	1849, s. 144.
228. Sequestration of Ecclesiastical Benefice - -	1859, § 122. 1861, s. 134. 1866, § 227.
229. Pay, &c. of Officers, &c. - - - -	1859, § 123. 1861, s. 134. 1866, § 226.
230. Transfer of Estates, &c. to Provisional Trustee in London.	
231. Provision for subsequent Transfers on Discharge of Creditor's Assignee.	
232. Protection of Purchasers - - - -	1849, s. 134. 1866, § 240.
233. Protection of Payments, &c. without Notice of Act of Bankruptcy.	1849, s. 133. 1866, § 239.
234. Protection of Payments, &c. by Depositees of Bankrupt's Property.	1 Jac. 1. c. 15. s. 14. 56 Geo. 3. c. 137. 10 Geo. 4. c. 16. s. 84.
235. Certain Warrants of Attorney, &c. within Two Months of Petition void.	1849, s. 135. 1866, § 246.
PART XIII.—PROOF.	
236. Proof, notwithstanding prior Act of Bankruptcy -	1849, s. 165 1866, § 156..
237. Set off - - - - - - -	1849, s. 172 1866, § 159.
238. Interest - - - - - - -	1849, s. 180. 1866, § 160.
239. Discount on Dividends for Debts not payable presently	1849, s. 172. 1866, § 161.
240. Debt payable by Instalments - - -	1861, s. 151. 1866, § 163.
241. Double Proof - - - - - -	1861, s. 152. 1866, § 166.
242. Proof for unliquidated Damages - - -	1861, s. 153. 1866, § 170.
243. Proof for Money, &c. enforceable by Process of Contempt	1859, § 108. 1861, s. 149.
244. Distress not available for more than One Year's Rent	1849, s. 129. 1866, § 242.
245. Proof for Rent, &c. - - - -	1861, s. 150. 1866, § 164.
246. Bottomry Respondentia and Insurance - - -	1849, s. 174. 1866, § 167.

Clauses.	Provisions of Acts and Bills.
247. Proof by Agents effecting Policies on Ships, &c. -	1849, s. 174. 1866, § 167.
248. Premiums on Policies and other periodical Payments	1861, s. 154. 1866, § 168.
249. Debt payable on Contingency - - - -	1849, s. 177. 1866, § 169.
250. Contingent Liability - - - -	1849, s. 178. 1866, § 169.
251. Annuity Creditor - - - - -	1849, s. 175. 1866, § 171.
252. Sureties and Persons liable for Debts of Bankrupt -	1849, s. 173. 1866, § 173.
253. Sureties for Annuities - - - -	1849, s. 176. 1866, § 172.
254. Bankrupt Member of a Company.	
255. Proof for Costs - - - - -	1849, s. 181. 1866, § 162.
256. Creditor proving to relinquish Action, &c. - -	1849, s. 182. 1866, § 158.
257. Proof to be deemed Election - - -	1849, s. 182. 1866, § 158.
Procedure.	
258. Mode of Proof of Debts - - - - -	1861, s. 144.
259. Proof by Companies, &c. - - - -	1861, s. 144.
260. False Declaration Perjury - - - -	1861, s. 145. 1866, § 317.
261. Proof in Court or in Chambers, &c. - - -	1866, s. 146.
262. Examination on Oath of alleged Creditor, &c. - -	1861, s. 148.
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266. Joint and separate Dividends - - - -	1861, s. 177.
267. Order for Dividend.	
268. Dividends of Execution Creditors - - -	1849, s. 184. 1866, § 174.
269. On Bankruptcy of Partner Dividends of Joint Creditors.	1849, s. 140. 1866, § 178.
270. No Action for Dividend - - - -	1849, s. 190. 1866, § 273.
271. Rates and Taxes - - - - -	1849, s. 166. 1861, s. 150. 1866, § 257.
272. Wages and Salaries of Servants and Clerks - -	1849, s. 168. 1866, § 260.
273. Wages of Labourers and Workmen - - -	1849, s. 169. 1866, § 260.
274. Indenture of Apprenticeship - - - -	1849, s. 170. 1866, § 261.
275. Allowance to Bankrupt for Maintenance - -	1849, s. 194. 1866, § 276.

Clauses.	Provisions of Acts and Bills.
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280. Control of Court over Acts of Trustee, &c.	
281. Audit and Taxation of Trustee's Accounts.	
282. Resolution of Release	1861, s. 180.
283. On Release unclaimed Dividends, &c. to be paid into Bank.	1861, s. 181.
284. Lodgment in Bank of England, and Receipt, &c.	1861, s. 183.
285. Provisional Trustee to act after Release of Trustee	1861, s. 182.
286. Protection of Provisional Trustee in case of annulling	1849, s. 41.
287. Protection of Provisional Trustee respecting Receipt of Money, &c.	1849, s. 41.
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291. Effect of Resolution.	
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297. Jurisdiction of Court to entertain Applications under Deed.	
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299. Failure of complete Execution.	
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313. Application for Declaration of complete Execution.
314. Declaration of complete Execution.
315. Effect of complete Execution.
316. Jurisdiction of Court to entertain Applications.
317. Proceedings as in Bankruptcy.
318. Decision of Questions as in Bankruptcy.
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321. In case of Fraud, &c. Power for Court to adjudge Debtor Bankrupt.
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362. Saving for Insolvency Act (India).	
363. Notice to Agent of Company	1849, ss. 87, 165. 1866, §§ 156, 157.
364. Orders and Notices by Post	1861, s. 201. 1866, § 311.
365. General Orders as to Advertisements	1861, s. 202. 1866, § 312.
366. Inserting Advertisement without Authority	1849, s. 272. 1866, § 319.
367. Duty of Bankrupt to attend Trustee	1849, s. 105.
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369. Duty of Bankrupt after Discharge	1849, s. 105.
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371. Escape, &c. of Persons committed	1849, s. 232.
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373. Service of Summons on Person keeping out of the way	1849, s. 121. 1866, § 193.
374. Expenses of Witnesses Attendance	1843, s. 250.
375. Apprehension of Bankrupt in keeping out of the way	1866, § 195.
376. Commitment on Refusal to be sworn, &c.	1849, s. 119. 1849, s. 260.
377. Contents of Warrant	1866, § 196. 1861, s. 112.
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379. Delivery of Copy of Examination - - -	1866, § 198.
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416. Sale of Securities on Chief Registrar's Account.	
417. Income of Three Accounts.	
418. Payment of Compensations, &c. out of Annual Votes -	1861, s. 35. 1866, § 45.
419. Application of Money on Chief Registrar's Account -	1861, ss. 35, 36. 1866, §§ 35, 40, 45.
420. Salaries of Judges and Officers.	
421. Salaries of Commissioners, and of abolished Officers.	
422. Salaries of Clerks, &c. - - - -	1861, Sched. A. 1866, Sched. B.
423. Quarterly Payment of Salaries - - -	1854, s. 10. 1861, ss. 29, 57.
424. Retiring Annuities to Judges and Officers - -	1861, s. 33.
425. Compensation Annuities to Holders of abolished Offices.	1866, § 42.
426. Compensation to Clerks - - - -	1866, § 43.
427. Acceptance of public Employment by Annuitants -	1849, s. 57. 1861, s. 34. 1866, § 44.
428. Expenses of Registrar attending Meetings, &c. -	1861, s. 58. 1866, § 49.
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429. Fees to be fixed by General Orders.	

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Stamps - - - - -	1849, ss. 48–52.
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442. Jurisdiction of County Courts - - -	1861, s. 20.
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445. Salary of Provisional Assignee.	
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447. Fees in Insolvent Cases.	
448. Accounts of Insolvent Debtors Courts.	
449. Application of Insolvent Debtors Court Funds -	1861, ss. 26, 30.
450. Saving for Right to Superannuation Allowance, &c. -	1861, s. 22.
451. Transfer of Money of Insolvent Estates.	
452. Unclaimed Dividends in Insolvent Debtors Court.	

A

B I L L

TO

Consolidate and amend the Acts relating to Bankruptcy in England.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Part I.—Preliminary.

Division of Act.

1. This Act shall be divided into Parts, as follows:

Part I.—Preliminary.
Part II.—Jurisdiction in Bankruptcy; Courts and Officers.
Part III.—Acts of Bankruptcy in general.
Part IV.—Trader-Debtor Summons.
Part V.—Declaration of Insolvency.
Part VI.—Adjudication.
Part VII.—Choice of Trustee and Inspectors.
Part VIII.—Secured Creditors; Meetings.
Part IX.—Last Examination and Accounts.
Part X.—Order of Discharge.
Part XI.—Consequences of Adjudication with respect to Property.
Part XII.—Possession, Collection, and Management of Estate.

Part XIII.—Proof.
Part XIV.—Dividends; Preferential Payments; Allowances; Surplus.
Part XV.—Control of Trustee; Audit; Release.
Part XVI.—Transfer out of Bankruptcy.
Part XVII.—Change from Bankruptcy to Arrangement.
Part XVIII.—Arrangement by Deed.
Part XIX.—After-acquired Property in Bankruptcy and Arrangement.
Part XX.—Misdemeanours in Bankruptcy and Arrangement.
Part XXI.—Miscellaneous Provisions respecting Bankruptcy and Arrangement.
Part XXII.—Funds of Court of Bankruptcy; Salaries; Annuities; Fees; Stamps.
Part XXIII.—General Orders.
Part XXIV.—Temporary Provisions respecting late Insolvent Debtors Court.

Short Title.

2. This Act may be cited as The Bankruptcy Act, 1867.

Commencement.

3. Except as in this Act expressly otherwise provided, and except with respect to the Appointment of Officers, in which respect this Act shall take effect from its passing, this Act shall take effect from and immediately after the *31st Day* of *December 1867* (which Time is in this Act referred to as the Commencement of this Act).

Extent of Act.

4. Except as in this Act expressly otherwise provided, this Act shall not extend to Scotland or Ireland.

Application of Act to future Bankruptcies.

1849, s. 4. 1866, §§ 2, 4, 5.

5. The Provisions of this Act relating to Bankruptcy shall have effect only in Cases where Adjudication of Bankruptcy is made after the Commencement of this Act; but every Trading, Act of Bankruptcy, Petitioning Creditor's Debt, or other Thing, existing or done before the Commencement of this Act, which, if it had existed or been done after the Commencement of this Act, would have authorized Proceedings in Bankruptcy or have supported Adjudication of Bankruptcy, shall be sufficient to authorize Proceedings in Bankruptcy and to support Adjudication of Bankruptcy under this Act; and any Proceedings by Trader-Debtor Summons, Petition, or otherwise, taken with a view to obtain Adjudication of Bankruptcy and pending at the Commencement of this Act, which if they had been instituted after the Commencement of this Act would have supported

supported Adjudication of Bankruptcy, shall have the like Validity, Effects, and Consequences as if they had been so instituted.

Definition of Traders.

6. The following Classes of Persons shall, for the Purposes of this Act, be deemed Traders:

1849, s. 65. 1866, § 326.

Alum Makers, Apothecaries, Auctioneers, Bankers, Bleachers, Brokers, Brickmakers, Builders, Calenderers, Carpenters, Carriers, Cattle or Sheep Salesmen, Coach Proprietors, Cowkeepers, Dyers, Fullers, Keepers of Inns, Taverns, Hotels, or Coffee Houses, Limeburners, Livery Stable Keepers, Market Gardeners, Millers, Packers, Printers, Shipowners, Shipwrights, Victuallers, Warehousemen, Wharfingers, Persons using the Trade or Profession of a Scrivener, receiving other Men's Moneys or Estates into their Trust or Custody, Persons insuring Ships or their Freight or other Matters against Perils of the Sea, Persons using the Trade of Merchandise by way of Bargaining, Exchange, Bartering, Commission, Consignment, or otherwise, in Gross or by Retail, and Persons who, either for themselves or as Agents or Factors for others, seek their Living by buying and selling, or by buying and letting for Hire, or by the Workmanship of Goods or Commodities, whether such Persons have Privilege of Parliament or not:

But a Farmer, Grazier, Common Labourer, or Workman for Hire, Receiver-General of Taxes, or Member of or Subscriber to an incorporated Commercial or Trading Company established by Charter or by or under Act of Parliament, shall not be deemed as such a Trader for the Purposes of this Act.

Tender, &c. equal to Payment.

7. Where under this Act any Sum is required to be paid to a Creditor or other Person, the Tender of, or the securing or compounding to the Satisfaction of the Creditor or other Person of or for, such Sum shall be deemed Payment thereof.

Computation of Time.

1849, s. 276. 1861, s. 229. 1866, § 326.

8. Where by this Act any limited Time from or after any Date or Event is appointed or allowed for the doing of any Act or the taking of any Proceeding, then in the Computation of such limited Time the same shall be taken as exclusive of the Day of such Date or of the happening of such Event, and as commencing at the beginning of the next following Day; and the Act or Proceeding shall be done or taken at latest on the last Day of such limited Time according to such Computation, unless such last Day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a Day appointed for Public Fast, Humiliation, or Thanksgiving, in which Case any Act or Proceeding shall be considered as done or

taken in due Time if it is done or taken on the next Day afterwards, not being one of the Days in this Section specified.

Where by this Act any Act or Proceeding is directed to be done or taken on a certain Day, then if that Day happens to be one of the Days in this Section specified, such Act or Proceeding shall be considered as done or taken in due Time if it is done or taken on the next Day afterwards, not being one of the Days in this Section specified.

Interpretation.

9. In this Act—

The Term "County Court" means a County Court holden by virtue of the Act of the Session of the Ninth and Tenth Years of Her Majesty's Reign (Chapter Ninety-five) "for the more easy "Recovery of Small Debts and Demands in England":

9 & 10 Vict. c. 95.

The Term "the Court" means, except where it is expressly otherwise provided, the Court wherein the Matter or Proceeding is pending or is to be taken to which the Provision in which that Term is used relates:

The London Gazette is referred to as the Gazette, and Publication in the Gazette is referred to as gazetting.

Part II.—Jurisdiction in Bankruptcy; Courts and Officers.

Distribution of Jurisdiction.

Jurisdiction in Bankruptcy.

10. The Court of Bankruptcy in London shall have throughout England, and the Country District Courts of Bankruptcy (until their Discontinuance by virtue of this Act) shall also have within their respective Districts, and the County Courts shall also have within their respective Districts, Jurisdiction in Bankruptcy and for the other Purposes of this Act.

Court of Appeal.
14 & 15 Vict. c. 83. s. 7. 1866, § 12.

11. The Court of Appeal in Chancery, as constituted and regulated by the Enactments relating to that Court, shall be the Court of Appeal in Bankruptcy.

Appeal to House of Lords.
1849, s. 18. 14 & 15 Vict. c. 83. s. 10. 1866, § 13.

12. Any Decision or Order of the Court of Appeal shall, if that Court considers the Matter of sufficient Difficulty or Importance to require the Decision of the House of Lords (but not otherwise), be subject to Appeal to the House of Lords on any Question of Law or Equity or on the Rejection or Admission of Evidence.

Courts and Officers.

1. Court of Bankruptcy in London.

Establishment of Court in London.

13. The Court of Bankruptcy in London shall comprise the following Judges and Officers,—namely, Judges not exceeding *Three* in Number, Registrars not exceeding *Eight* in Number, *One* Taxing Master, *One* Provisional Trustee, and *One* Messenger.

First Judges, &c. of Court.

14. The Persons who are at the Commencement of this Act Commissioners, Chief Registrar and other Registrars, and Taxing Master of the Court of Bankruptcy for the London District, shall in the first instance be the Judges, Chief Registrar, Registrars, and Taxing Master respectively of the Court of Bankruptcy in London.

Tenure of Office of Judges.

15. The Judges shall hold Office during good Behaviour; but any Judge may be removed by Her Majesty, Her Heirs or Successors, on an Address from both Houses of Parliament.

Appointment of Judges. 1866, § 15.

16. When a Vacancy happens in the Office of Judge, it shall be lawful for Her Majesty, Her Heirs or Successors, by Letters Patent under the Great Seal of the United Kingdom, to appoint a fit Person to fill the Vacancy, being or having been a Serjeant or Barrister of not less than *Ten* Years Standing at the Bar.

Tenure of Office of Registrars, &c. 1831, s. 9. 1854, s. 3. 1861, s. 8. 1866, § 16.

17. The Registrars and Taxing Master shall hold Office during good Behaviour; but any Registrar or Taxing Master may be removed by the Lord Chancellor by Order, for some sufficient Reason therein stated.

Appointment of Registrars. 15 & 16 Vict. c. 77. s. 3. 1866, § 16.

18. When a Vacancy happens in the Office of Registrar the Lord Chancellor shall appoint a fit Person to fill the Vacancy; and when a Vacancy happens in the Office of Chief Registrar the Lord Chancellor shall appoint One of the Registrars to fill the Vacancy.

Appointment of future Taxing Master. 1844, s. 45. 1866, § 23.

19. When a Vacancy happens in the Office of Taxing Master the Lord Chancellor shall appoint a fit Person to fill the Vacancy being or having been a Barrister of not less than *Five* Years Standing at the Bar, or a Special Pleader below the Bar of not less than *Five* Years Standing, or a Person who is or has been a Registrar of the Court of Bankruptcy, having been such for not less than *Five* Years, or being an Attorney or Solicitor of a Superior Court of Law or Equity, or of the Court of Bankruptcy, of *Five* Years Standing or upwards, and in actual Practice.

Appointment of Provisional Trustee.

20. One of the Persons who are at the passing of this Act the Official Assignees of the Court of Bankruptcy for the London District shall be appointed by the Lord Chancellor the Provisional Trustee of the Court of Bankruptcy in London; and when a Vacancy happens in that Office the Lord Chancellor shall appoint a fit Person to fill the Vacancy; and any Provisional Trustee may be removed by the Lord Chancellor by Order for some sufficient Reason therein stated.

Appointment of Messenger.

21. One of the Persons who are at the passing of this Act Messengers of the Court of Bankruptcy for the London District shall be appointed by the Lord Chancellor the Messenger of the Court of Bankruptcy in London; and when a Vacancy happens in that Office the Lord Chancellor shall appoint a fit Person to fill the Vacancy; and any Messenger may be removed by the Lord Chancellor by Order for some sufficient Reason therein stated.

2. Country District Courts of Bankruptcy.

Establishments of Country District Courts of Bankruptcy.

22. In and for the Country Districts into which England is at the Commencement of this Act divided for Purposes of Bankruptcy, the Court of Bankruptcy shall comprise (in addition to the Court of Bankruptcy in London) the Persons who are at the Commencement of this Act the Commissioners, Registrars, Official Assignees, and Messengers of the several Country District Courts of Bankruptcy, as long only as those several Commissioners remain in Office.

Vacancies not to be filled.

23. A Vacancy in the Office of any such Commissioner by Death, Resignation, or otherwise shall not be filled, and thereupon that Country District Court in which he presided shall be deemed to be discontinued.

Disposal of Business.

24. Such Part of the Business pending in a Country District Court at its Discontinuance as the Lord Chancellor thinks fit shall be disposed of by the Registrar and Officers of that Court, and, subject thereto, that Business shall be transferred to the Court of Bankruptcy in London, or to a County Court or County Courts, as the Lord Chancellor, by Order before or after the Discontinuance, thinks fit to direct.

Provision for Vacancies.

25. If a Vacancy in the Office of Registrar, Official Assignee, or Messenger of any such Court happens during the Continuance of the Court, it shall not be filled, but the Lord Chancellor may, if it appears to him requisite for the due Conduct of the Business of the Court, appoint a fit Person to act as Registrar, Official Assignee, or Messenger during the Continuance of the Court, who shall have the

the Powers of a Registrar, Official Assignee, or Messenger, and shall receive such Remuneration as the Lord Chancellor directs out of Money standing to the Chief Registrar's Account, at a Rate not exceeding that of the Remuneration of the Officer in whose Stead he is appointed.

Provisional Trustee in Country Districts.

26. During the Continuance of every such Court, the Official Assignee, or, if there are *Two*, the Official Assignees, of the Court shall act as the Provisional Trustee or Trustees of the Court, and where there are *Two* the Duties shall be divided between them as General Orders direct.

3. County Courts.

Provisional Trustee in County Court.

27. The Registrar of each County Court shall be the Provisional Trustee of that Court.

Messenger in County Court.
1861, s. 11.

28. The High Bailiff of each County Court shall discharge the Duties of Messenger in Matters of Bankruptcy in that Court.

Abolition of Offices.

Enumeration of abolished Officers.
1861, s. 12.
1866, §§ 31, 36.

29. The following Offices shall be abolished at the Times following:—

The Office of Accountant in Bankruptcy on a Vacancy therein after the Commencement of this Act:

The Offices of the Official Assignees of the Court of Bankruptcy in London, the Offices of all the Messengers of that Court except *One*, and the Office of the Registrar of Meetings, from the Commencement of this Act:

The Offices of the Registrars, Official Assignees, and Messengers of the several Country District Courts of Bankruptcy, from the Discontinuance of those several Courts under this Act, but subject to the Provisions of this Act respecting Business pending in those Courts at their Discontinuance.

Transfer of Duties of Accountant in Bankruptcy.
1861, s. 12.
1866, § 31.

30. From and after the Abolition of the Office of the Accountant in Bankruptcy the Duties thereof shall be discharged by the Chief Registrar, and the Title of the Chief Registrar shall be substituted for that of the Accountant in the Accounts of Money and Securities then standing in the Books of the Bank of England in the Name of the Accountant.

Powers and Duties of Courts and Officers.

Powers, &c., of Court of Bankruptcy.

31. The Court of Bankruptcy shall for all Purposes of this Act be a Court of Law and Equity and a Court of Record, and shall have

1849, s. 6. 1861, s. 1. 1866, § 6.

have and exercise all the Powers and Authorities of the Superior Courts of Law and Equity; and Orders of the Court shall be enforceable by any Process by which Orders of any of those Superior Courts are enforceable.

Jurisdiction of Court of Bankruptcy and County Courts. 1849, s. 12.

32. The Court of Bankruptcy and each County Court shall hear, determine, and make Order in any Matter of Bankruptcy, as far as the Trustee is concerned, relating to the Disposition of the Bankrupt's Estate, or of any Property taken under the Bankruptcy, or claimed by the Trustee for the Benefit of the Creditors, or relating to any Act done or sought to be done by the Trustee, in his Character of Trustee, by virtue of the Bankruptcy, and also in any Matter of Bankruptcy as between the Trustee and any Creditor or other Person appearing and submitting to the Jurisdiction of the Court.

Each Judge, &c. to form Court; Powers of County Court Judges. 1849, s. 6.

33. Each Judge and Commissioner of the Court of Bankruptcy shall, subject to the Provisions of this Act, have all the Jurisdiction, Powers, and Rights of the Court; and any Judge of a County Court may, subject to General Orders, act for a Judge of any other County Court.

Power for Judges to sit together.

34. The Three Judges of the Court of Bankruptcy in London, or any Two of them, may from Time to Time sit together as General Orders direct, and, subject thereto, as they think fit.

Enforcement of County Court Orders.

35. Orders of County Courts under this Act shall be enforceable as Orders of County Courts under their ordinary Jurisdiction are enforceable.

Orders in Bankruptcy to have effect of Judgments. 1 & 2 Vict. c. 110. s. 18. 27 & 28 Vict. c. 112. 1849, s. 248. 18 & 19 Vict. c. 15. s. 10. 1861, ss. 213, 214. 27 & 28 Vict. c. 112. s. 2. 1866, §§ 12. 58.

36. Section Eighteen of the Act of the Session of the First and Second Years of Her Majesty's Reign (Chapter One hundred and ten), "for abolishing Arrest on Mesne Process in Civil Actions, "except in certain Cases; for extending the Remedies of Creditors "against the Property of Debtors; and for amending the Laws for "the Relief of Insolvent Debtors in England," as far as the same relates to Orders and Powers of the Lord Chancellor or of the Court of Review in Matters of Bankruptcy, and all Provisions in that Act relative thereto, and all subsequent Enactments in force at the Commencement of this Act relative thereto or to the Registration of those Orders, shall be read and have effect as if the Court of Bankruptcy and the Court of Appeal in Bankruptcy had been mentioned in the said Section Eighteen in lieu of the Court of Review.

37. The

37. The Court of Bankruptcy and any County Court may award such Costs as the Court thinks fit, and Costs so awarded shall be recoverable as Costs awarded by a Rule of any of the Superior Courts, and the like Remedies may be had on an Order under this Act for Costs as on any such Rule.

Order for Costs.
1861, s. 213.
1866, § 58.

38. The Court of Bankruptcy and the County Courts shall be auxiliary to each other for all Purposes of this Act in such Manner as General Orders direct.

Courts to be auxiliary.
1849, s. 21.
1861, s. 220.
1866, § 70.

39. Where an Application under this Act is required or authorized to be made to a County Court, and the County Court is not sitting, and the Registrar of that Court is not empowered to entertain the Application, the same shall or may be made to the Court of Bankruptcy in London, and the Order of that Court thereon shall have the same Validity and Effect as if the Proceedings were pending in that Court.

Applications when County Courts not sitting.

40. Any Registrar of the Court of Bankruptcy may, during Vacation or during the Illness or Absence from any other reasonable Cause of any Judge or Commissioner thereof, act for such Judge or Commissioner with all the Jurisdiction, Power, and Authority of such Judge or Commissioner.

Power for Registrar to act for Judge or Commissioner.
1849, s. 27.
1866, § 21.

41. The Registrar of a County Court shall discharge the like Duties and shall have the like Powers and Authorities as a Registrar of the Court of Bankruptcy.

County Court Registrars.
1861, s. 10.
1866, § 19.

42. Any Registrar of the Court of Bankruptcy may act for the Chief or any other Registrar thereof or for the Taxing Master; and any County Court Registrar may act for any other County Court Registrar.

Power for Registrars to act for each other, &c.
1849, s. 30.
1854, s. 7.

43. Where a Registrar of the Court of Bankruptcy is temporarily hindered from discharging his Duty by Illness or unavoidable Absence, the Lord Chancellor may, if he thinks fit, appoint a fit Person to act in the Stead of such Registrar, and the Person so appointed shall have and discharge all the Powers and Duties of such Registrar.

Substitute in Illness, &c. of Registrar.
1854, ss. 7, 8.
1866, § 22.

44. The Chief Registrar shall provide a Seal for himself and each of the other Registrars of the Court of Bankruptcy, on which shall be engraven the Style of the Court; and such Seals shall be kept by the Registrars in trust for the Purposes of the Court, and each thereof shall be the Seal of the Court; and the Seals in use at the Commencement of this Act may be continued in use.

Seal of Court of Bankruptcy.
1849, s. 29.

 45. The

Sittings of Court. 1861, ss. 48, 49. 1866, § 46.

45. The Court of Bankruptcy in London and in each Country District shall sit daily, except on Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, and Days appointed for Public Fast, Humiliation, or Thanksgiving, save that in Vacations of the Court of Chancery the Lord Chancellor may by Order regulate the Sittings and the Attendance of Judges, Commissioners, Registrars, and other Officers necessary for due Administration of Justice, and so that the Business of Adjudication and the issuing of Summonses and other Process be at all Times provided for.

Judges of Court of Bankruptcy to sit at Chambers. 1859, §§ 150–155. 1861, ss. 51, 52. 1866, §§ 47, 48.

46. The Judges and Commissioners of the Court of Bankruptcy shall sit at Chambers for the Despatch of such Part of the Business of the Court as General Orders direct, and, subject thereto, as each Judge or Commissioner thinks fit.

Jurisdiction in Chambers.

47. A Judge or Commissioner sitting in Court may, if he thinks fit, adjourn any Matter for Consideration at Chambers, and vice versâ.

A Judge or Commissioner sitting at Chambers shall have the same Power and Jurisdiction as when sitting in Court.

A Judge or Commissioner may discharge or vary at Chambers or in Court any Order made by him at Chambers.

Registrars to attend Judge at Chambers.

48. A Registrar of the Court of Bankruptcy shall attend and assist a Judge or Commissioner at Chambers as in Court, as the Judge or Commissioner directs.

Sittings of Registrars at Chambers.

49. A Registrar of the Court of Bankruptcy shall sit at Chambers for Despatch of such Part of the Business of the Court as General Orders direct, and, subject thereto, as a Judge or Commissioner from Time to Time directs, and while so sitting shall have the same Power and Jurisdiction as a Judge or Commissioner of the Court at Chambers would have, and an Order made by him shall be an Order of the Court; but a Registrar at Chambers shall not commit any Person to Prison, or hear an Application for Adjudication, or respecting an Order of Discharge, if such Application is opposed.

Application to Judge as to Order of Registrar.

50. Any Party shall be at liberty to take the Opinion of a Judge or Commissioner on any Point or Matter arising in Proceedings before a Registrar at Chambers, and an Order made by a Registrar at Chambers may be discharged or varied by a Judge or Commissioner at Chambers or in Court.

Summons at Chambers.

51. Proceedings at Chambers shall be on Summons.

52. In

52. In every Country District Court and County Court the Registrar shall tax Bills of Costs, Charges, Fees, and Disbursements of Solicitors, Attorneys, Accountants, Auctioneers, Valuers, and others employed in Matters under this Act before that Court (unless that Court otherwise directs), subject to Review by that Court. Taxation in Country. 1861, s. 14. 1866, § 25.

53. The Commissioner of a Country District Court or Judge of a County Court may refer any taxable Bill or any Question thereon to the Taxing Master. Reference from Country to Taxing Master. 1861, s. 14. 1866, § 25.

54. The Taxing Master shall tax Bills of Costs, Charges, Fees, and Disbursements of Solicitors, Attorneys, Accountants, Auctioneers, Valuers, and others employed in Matters under this Act in the Court of Bankruptcy in London and in the Court of Appeal, and taxable Bills referred to him by a Commissioner of a Country District Court or Judge of a County Court, subject to Review by the Court of Bankruptcy in London. Bills to be taxed by Taxing Master. 1861, s. 13. 1866, § 24.

55. All Charges, Fees, and Disbursements of any Auctioneer, Appraiser, Broker, Valuer, Clerk, Accountant, or other Person claimed against a Bankrupt's Estate for any Services rendered under the Bankruptcy may be taxed and settled by the Taxing Master, or by a Registrar, in such Manner and subject to such Conditions as General Orders direct, and no more than the Amount of the Bills so settled shall be recoverable. Taxation of Charges. 1856, s. 125. 1866, § 207.

56. The Provisional Trustee shall act in such Manner, give such Security, and receive such Remuneration, as General Orders direct. Security, &c. of Provisional Trustee. 1849, ss. 38, 44. 1854, s. 11.

57. The Messenger of the Court of Bankruptcy in London shall act in such Manner, give such Security, and receive such Remuneration as General Orders direct. Duties, &c. of Messenger.

58. Every Solicitor of the Court of Chancery shall be and may practise as a Solicitor of and in the Court of Bankruptcy, and in Matters before the Judges, Commissioners, or Registrars, or in Chambers, may appear and be heard without being required to employ Counsel; and if any Person not being such a Solicitor practises in the Court of Bankruptcy as a Solicitor he shall be deemed guilty of a Contempt of the Court. Solicitors. 1849, s. 247. 1861, s. 212. 1866, § 57.

59. A Registrar or other Officer of a County Court shall not either by himself or by his Partner be directly or indirectly engaged as Restriction on Registrar &c., acting as Solicitor. 1866, § 57.

as Solicitor, Attorney, or Agent for any Party in any Proceeding under this Act in the Court of which he is Registrar or Officer, or in the Court of Appeal on an Appeal from that Court.

Appeal.

Powers of Court of Appeal. 1849, s. 13. 14 & 15 Vict. c. 83. 1861, ss. 59. 60. 1866, § 12.

60. The Court of Appeal in Bankruptcy as such shall be and form a Court of Record, and shall have all the Jurisdiction, Powers, and Authorities of the Court of Bankruptcy (to be exerciseable either originally or on Appeal), and shall have all the Powers and Authorities of the Court of Chancery relative to the Trial of Questions of Fact by Jury, Issue, or otherwise.

Appeal subject to General Orders. 1849, ss. 12, 17. 1861, s. 66. 1866, §§ 76, 77.

61. Except as in this Act expressly otherwise provided, an Appeal shall lie to the Court of Appeal in Bankruptcy from any Order or Decision of the Court of Bankruptcy, or of a County Court, subject to such Provisions respecting Notice of Appeal, Deposit, or other Security for Costs, Procedure, Evidence, and other Matters as General Orders direct.

Time for Appeal.

62. The Time for Appeal shall be limited to *Twenty-one Days* from the Date of the Decision or Order to be appealed from, but the Court of Appeal may, if it thinks fit, allow an Appeal to be commenced and prosecuted, notwithstanding the Expiration of that Time.

Proceedings not to be stayed by Appeal. 1866, § 78.

63. The Proceedings under a Bankruptcy shall not be stayed by Appeal, but on Cause shown the Court from which the Appeal is brought may, if it thinks fit, order Proceedings to be stayed. The Court of Appeal may in any Case, either on Motion before the Hearing of an Appeal, or when deciding thereon, order any such Proceeding to be taken as in the Circumstances appears to it proper for the due and convenient Prosecution of the Bankruptcy, although the Time fixed for such Proceeding has expired.

Part III.—Acts of Bankruptcy in General.

Nonpayment of Judgment Debt after Summons. 1859, § 47. 1861, ss. 83, 84. 1866, § 126.

64. If any Person fails for *Seven Days* after the Time limited for his Appearance to a Judgment Debtor Summons to pay the Amount of the Judgment Debt or Demand and Costs, he shall be deemed to have committed an Act of Bankruptcy at the Expiration of the Time so limited.

Going or remaining abroad, frau-

65. If any Person, with Intent to defeat or delay his Creditors, does any of the following Things; namely,—departs out of England,

—or

—or being out of England remains out of England,—or makes or causes to be made in England or elsewhere a fraudulent Conveyance, Surrender, Gift, Delivery, or Transfer of all or any Part of his Property,—he shall be deemed to have thereby committed an Act of Bankruptcy.

dulent Conveyance with Intent, &c.
1849, s. 67.
1861, s. 70.
1866, § 95.

66. If any Person on Arrest or Commitment to Prison for Debt, or under Attachment for Nonpayment of Money, or on Detention for Debt, remains in Custody or in Prison for *One Month*,—or on Arrest or Commitment to Prison for any Cause remains in Custody or in Prison for *One Month* after a Detainer for Debt lodged against him and not discharged,—he shall be deemed to have thereby committed an Act of Bankruptcy.

Lying in Prison.
1849, s. 69.
1861, s. 71.
1866, § 96.

67. If any Person arrested, committed, or detained for Debt, or under Attachment for Nonpayment of Money, escapes out of Custody or Prison, he shall be deemed to have committed an Act of Bankruptcy at the Time of the Arrest, Commitment, or Detention.

Escaping out of Custody or Prison.
1849, s. 69.
1861, s. 71.
1866, § 96.

68. If any Person after the filing of a Petition for Adjudication of Bankruptcy against him by a Creditor pays, gives, or delivers to that Creditor Money or any Satisfaction or Security for his Debt or any Part thereof, with Intent that the petitioning Creditor may receive more than other Creditors, he shall be deemed to have thereby committed an Act of Bankruptcy.

Compounding with petitioning Creditor.
1849, s. 71.
1866, § 100.

69. If any Person petitions a British Court out of England, having Jurisdiction in Bankruptcy or Insolvency, or for the Relief of Insolvent Debtors, praying Adjudication of Bankruptcy against himself, or Relief as an Insolvent Debtor, he shall be deemed to have thereby committed an Act of Bankruptcy, which shall have the same Effect for the Purposes of this Act as if it had been committed in England.

Petition by Debtor against himself out of England.
1849, s. 75.
1861, s. 75.
1866, § 98.

70. If, in a British Court out of England, having Jurisdiction in Bankruptcy or Insolvency, or for the Relief of Insolvent Debtors, a Petition for Adjudication of Bankruptcy or Insolvency, or to the like Effect, is filed by a Creditor against any Person, and such Adjudication is made thereon, the Debtor shall be deemed to have committed an Act of Bankruptcy at the Time of that Adjudication, which Act of Bankruptcy shall have the same Effect, for the Purposes of this Act, as if it had been committed in England.

Adjudication against Debtor out of England.
1861, s. 75.
1866, § 98.

71. If a Trader, with Intent to defeat or delay his Creditors, does any of the following Things; namely,—departs from his

Trader absenting himself, begin-

ning to keep House, &c. 1849, s. 67. 1861, § 99.

Dwelling House, or otherwise absents himself,—or begins to keep his House,—or suffers himself to be arrested or taken in Execution for any Debt not due,—or yields himself to Prison,—or suffers himself to be outlawed,—or procures himself to be arrested or taken in Execution,—or procures his Personal Property or any Part thereof to be attached, sequestered, or taken in Execution,—he shall be deemed to have thereby committed an Act of Bankruptcy.

Seisure and Sale in Execution of Property of Trader. 1861, s. 73. 1866, § 101.

72. If Execution of a Judgment, Decree, or Order against a Trader is levied by Seisure and Sale of his Personal Property, or of any Part thereof, he shall be deemed to have committed an Act of Bankruptcy at the Time of the Seisure.

Trader having Privilege of Parliament not entering Appearance to Action within Month, &c. 1849, s. 77.

73. If a Person alleging himself to be a Creditor, to an Amount sufficient to support a Petition for Adjudication, of a Trader having Privilege of Parliament, files an Affidavit in One of the Superior Courts of Law, to the effect that the Debt is justly due to him, and that the Debtor is to the best of his Belief a Trader, and sues out of the same Court a Summons against the Debtor, and serves him personally with a Copy thereof, and the Debtor does not within *One Month* after such Service either pay the Debt, or cause an Appearance to be entered in an Action brought for the Recovery of the Debt, and enter into a Bond, in such Sum and with *Two* sufficient Sureties as a Judge of One of the Superior Courts approves, to pay the Amount to be recovered in that Action, with any Costs to be given therein, then and in every such Case the Debtor so summoned shall be deemed to have committed an Act of Bankruptcy from the Time of the Service of the Summons.

Part IV.—Trader-Debtor Summons.

1849, ss. 78–86. 1866, §§ 102–108.

Notice to Trader and Affidavit of Debt.

74. Any Creditor of a Trader may deliver to the Debtor personally, or to some adult Inmate at his usual or last known Place of Abode or Business, an Account in Writing of the Particulars of his (the Creditor's) Demand, with a Notice subjoined requiring immediate Payment of the Amount thereof, and may file an Affidavit of the Truth of the Debt and of the Debtor being a Trader in the following Court, at the Option of the Creditor, namely,—

(1.) In the County Court having Jurisdiction in the Place where the Debtor resides; or,

(2.) During the Continuance of the Country District Court of Bankruptcy (if any) having Jurisdiction in the Place aforesaid, in that District Court; or,

(3.) In the Court of Bankruptcy in London.

And

And in this Part of this Act the Court in which the Affidavit is filed is referred to as the Court.

Summons to Trader.

75. The Court may thereupon issue a Summons requiring the Debtor to appear before the Court, and stating the Purpose for which he is summoned (which Summons is in this Act referred to as a Trader-Debtor Summons).

A Trader-Debtor Summons shall be served on the Debtor against whom it is issued, either personally, or by Delivery thereof to some adult Inmate at his usual or last known Place of Abode or Business.

Non-appearance of Trader.

76. If the Debtor does not appear according to the Summons (unless he is prevented from so doing by some Impediment allowed by the Court, or unless the Summons is by Consent or for other good Cause discharged by the Court) the Debtor shall be deemed to have committed an Act of Bankruptcy at the End of *Seven Days* from the Service of the Summons, unless in the meantime he pays the Amount of the Demand.

Requisition by Court on Appearance of Trader.

77. If the Debtor appears according to the Summons, he shall be at liberty to dispute the alleged Trading, and the Interest of the alleged Creditor in the Demand, or either of those Matters, and for that Purpose to adduce Evidence, and to cross-examine the Creditor on the Affidavit on which the Summons was issued; and the Court, unless such Trading or Interest is disproved to its Satisfaction, shall thereupon require the Trader to state whether he admits or denies the Demand, or any and what Part thereof.

Admission of whole Demand.

78. If the Trader admits the whole Demand the Court shall require him to sign an Admission in Writing of the whole Demand; and he shall be deemed to have committed an Act of Bankruptcy at the End of *Seven Days* from the signing of such Admission, unless in the meantime he pays the whole Amount of the Demand.

Denial of whole Demand.

79. If the Trader denies the whole Demand the Court shall require him to sign a Declaration in Writing, to the Effect that he has, to the best of his Judgment and Belief, a good Defence on the Merits to the whole Demand; and if he fails to make such a Declaration, he shall be deemed to have committed an Act of Bankruptcy at the End of *Seven Days* from the Service of the Summons, unless in the meantime, or within such enlarged Time (if any) as the Court allows, he pays the whole Amount of the Demand.

 80. If

Admission of Part and Denial of Residue.

80. If the Trader admits Part of the Demand, and denies the Residue thereof, the following Provisions shall have effect:—

(1.) With respect to the Part admitted, the Court shall require him to sign an Admission thereof in Writing; and he shall be deemed to have committed an Act of Bankruptcy at the End of *Seven Days* from the signing of such Admission, unless in the meantime he pays the Amount admitted:

(2.) With respect to the Residue denied, the Court shall require him to sign a Declaration in Writing to the Effect that he has, to the best of his Judgment and Belief, a good Defence on the Merits to that Part of the Demand; and if he fails to make such a Declaration he shall be deemed to have committed an Act of Bankruptcy at the End of *Seven Days* from the Service of the Summons, unless in the meantime, or within such enlarged Time (if any) as the Court allows, he pays the Residue denied.

Refusal to sign Admission to be deemed Denial.

81. If the Trader, when required by the Court, fails to sign an Admission of the whole Demand, or an Admission of Part thereof, then, whether he makes any Statement or not, and whatever is the Nature of his Statement (if any), he shall be deemed for the Purposes of this Part of this Act to deny the whole Demand.

Bond for Demand or Part denied.

82. Where the Court requires the Trader to sign a Declaration of a good Defence to a Demand, or to Part thereof, the Court may also, if it thinks fit, at the same Time require him to enter into a Bond in such Sum and with such Surety or Sureties (not exceeding *Two*) as the Court directs, conditioned for the Payment of any Money recovered (with any Costs given) in any Action brought or to be brought in any Court of competent Jurisdiction for the Recovery of the Amount of the Demand, or of such Part thereof (as the Case may be); and if he fails to enter into such Bond, he shall be deemed to have committed an Act of Bankruptcy at the End of *Seven Days* from the Service of the Summons, unless in the meantime, or within such enlarged Time (if any) as the Court allows, he pays the Amount of the Demand, or of such Part thereof (as the Case may be).

Limitation of Time for Petition.

83. Notwithstanding anything in this Part of this Act, a Trader shall not be deemed to have committed an Act of Bankruptcy in any of the several Cases in this Part of this Act specified, unless a Petition for Adjudication of Bankruptcy against him is presented within *Two Months* from the filing of the Affidavit on which the Summons was issued.

84. In

Enlargement of Time by Court.

84. In any Proceeding by Trader-Debtor Summons, on reasonable Cause shown, the Court may from Time to Time, if and as it thinks fit, enlarge the Time for requiring the Trader to state whether he admits or denies the Demand, or any and what Part thereof, or to make a Declaration, or to enter into a Bond.

Admission of Demand out of Court.

85. An Admission of the whole or of Part of a Demand made after Service of a Trader-Debtor Summons, and signed out of Court by the Person summoned, (his Signature being attested by a Solicitor of the Court), may be filed in the Court, and when so filed shall have the same Effect as an Admission of the whole or of that Part of the Demand (as the Case may be), signed by him in Court, would have.

Notice, &c. in case of Partnership.

86. Where the Demand of a Creditor is against Persons trading in Partnership, the Delivery to any One of the Partners personally, or to some adult Inmate at his usual or last known Place of Abode or Business, and also at the Place of Business of the Partnership, of such an Account and Notice as are required in the case of a single Debtor, shall be sufficient to authorize the Court to issue a Trader-Debtor Summons, not only against the Partner to or for whom such Account and Notice are delivered, but also against any other or others of the Partners.

Costs of Proceedings in Court.

87. In any Proceeding by Trader-Debtor Summons the Court may allow to either Party such Costs as it thinks just; and the Court may, if it thinks fit, direct that the Costs of either Party shall abide the event of any Action brought or to be brought for the Recovery of the Demand, or any Part thereof, in which Case those Costs shall be deemed Part of the Costs of the Action, and shall be recoverable accordingly.

Costs of Action.

88. Where Proceedings are taken by Trader-Debtor Summons, and the Creditor in any Action against the Trader summoned does not recover, by Verdict or otherwise, the full Amount of the Demand stated in his Affidavit, or of the Part thereof not admitted by the Trader, the Costs of the Action shall be in the Discretion of the Judge before whom the Action is tried, or in case the Action is not brought to Trial then of a Judge of One of the Superior Courts of Law, or of the Court in which the Action is brought, if the same is not one of the Superior Courts.

Part V.—Declaration of Insolvency.

Filing of Declaration of Insolvency.
1849, s. 70.
1861, s. 72.
1866, § 97.

89. A Debtor not being in Prison or in Custody for Debt, or on Attachment for Non-payment of Money, or under Process of Contempt for such Non-payment, or on Detention for Debt, may file a Declaration signed by him (his Signature being attested by a Solicitor of the Court) that he is unable to meet his Engagements with his Creditors (in this Act referred to as a Declaration of Insolvency), in the following Court, at the Option of the Debtor, namely,—

(1.) In the County Court having Jurisdiction in the Place where the Debtor resides; or,

(2.) During the Continuance of the Country District Court of Bankruptcy (if any) having Jurisdiction in the Place aforesaid, in that District Court; or,

(3.) In the Court of Bankruptcy in London.

And in this Part of this Act the Court in which the Declaration is filed is referred to as the Court.

Provisional Trustee to be Receiver.

90. On and after the filing of the Declaration the Provisional Trustee shall become and be the Receiver of the Property of the Debtor filing the same, and as such shall act and account as General Orders direct.

Stay of Actions.

91. After the filing of the Declaration the Court may, on the Application of the Debtor or of any Creditor of the Debtor proving his Debt to the Satisfaction of the Court, restrain any Action, Suit, or Proceeding against the Debtor, on such Terms as the Court thinks fit.

Notice in Gazette.

92. Notice of the filing of the Declaration shall be gazetted.

Executions, &c. stayed.

93. After Notice of the filing of the Declaration has been gazetted, no Execution, Attachment, or other Process against the Debtor's Property in respect of any Debt, and no Process against his Person in respect of any Debt other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of England, shall be available without Leave of the Court.

List of Creditors and Property.

94. Within *Four Days* after the filing of the Declaration the Debtor shall file in the Court a List, signed by him, shewing the Names, Residences, and Occupations of his Creditors and the respective Amounts due to them, and a Statement showing his Property and the estimated Value thereof; and he may from Time to Time add to or amend such List or Statement; and every such List,

List, Statement, Addition, and Amendment shall be verified by his Affidavit.

Inspection of List and Statement.

95. Any Person stating himself to be a Creditor of the Debtor filing the Declaration may (subject to the Payment of the prescribed Fees, if any,) inspect the List of Creditors and Statement of Property filed, and have a Copy thereof or Extracts therefrom.

Declaration to be Act of Bankruptcy in certain Cases.

96. Until the Expiration of *Twenty-one* Days after the Notice has been gazetted the Debtor shall not be deemed to have committed an Act of Bankruptcy by filing the Declaration; but if, within *Three* Days after the Expiration of that Period of *Twenty-one* Days, Proceedings to obtain Adjudication against him are taken by a Creditor, or if Proceedings are not so taken by a Creditor, then if within *Two* Days after the Expiration of that Period of *Three* Days such Proceedings are taken by the Debtor, then and in either of those Cases (but not otherwise) the Debtor shall be deemed to have committed an Act of Bankruptcy by filing the Declaration.

Saving for intermediate Transactions.

97. Adjudication on such Act of Bankruptcy shall not prejudicially affect any Payment made or Thing done by the Bankrupt between the Act of Bankruptcy and the Adjudication, provided the same is made or done with the Consent or Approval of the Provisional Trustee.

Part VI.—Adjudication.

Petition.

Petition for Adjudication.

98. Proceedings to obtain Adjudication of Bankruptcy shall be by Petition (in this Act referred to as a Petition for Adjudication).

1849, s. 89.
1861, s. 87.
1866, § 111.

Court.

Court for Commencement of Proceedings.

99. A Petition for Adjudication filed by a Debtor or by a Creditor may be filed, at the Petitioner's Option, as follows:

(1.) In the County Court having Jurisdiction in the Place where the Debtor has resided for the *Six* Months next before the filing of the Petition, or for the longest Time within that Period of *Six* Months, unless he is in Custody, and then in the County Court having Jurisdiction in the Place where he is in Custody; or,

(2.) During the Continuance of the Country District Court of Bankruptcy (if any) having Jurisdiction in the Place aforesaid, in that District Court; or,

(3.) In the Court of Bankruptcy in London.

 100. The

Transfer by Creditors.

100. The Creditors of any Person by or against whom a Petition for Adjudication is filed may before or after Adjudication resolve that the Proceedings under the Petition shall be transferred from the Court in which it is filed to such other Court as they think fit, and the Court in which the Petition is filed shall, unless there appears good Reason to the contrary, make Order accordingly.

Transfer by Court. 1866, § 140.

101. The Court in which a Petition for Adjudication is filed may, before or after Adjudication, on the Application of a Creditor, or of the Debtor, or of the Trustee or an Inspector, and on being satisfied, regard being had to the Nature of the Debtor's Transactions, the Situation of his Property, the Residence of his principal Creditors, or other Circumstances, that the Proceedings under the Adjudication could be more beneficially and conveniently prosecuted in another Court, by Order transfer the Petition to that other Court, and an Appeal shall not lie against such Order.

Jurisdiction and Procedure on Transfer. 1866, §§ 141, 142.

102. On a Petition being transferred to any Court, that Court shall have Jurisdiction under the Petition, and shall not have Power to transfer it to any other Court; and all Orders, Affidavits, and Proceedings made, used, or taken thereunder before the Transfer, shall have the same Effect as if they had originally been Orders, Affidavits, and Proceedings of and in the Court to which the Transfer is made.

Creditor's Petition.

Amount of petitioning Creditor's Debt. 1849, s. 91. 1861, s. 89. 1866, § 109.

103. A Creditor or Creditors shall not be entitled to petition for Adjudication except in respect of a Debt or Debts of the respective Amounts following:—

One Person, or Two or more Persons being Partners, in respect of a Debt of *Fifty Pounds* or upwards:

Two Persons, not being Partners, in respect of a Debt of *Seventy Pounds* or upwards:

Three or more Persons, not being Partners, in respect of a Debt of *One hundred Pounds* or upwards.

Creditor for Sum not payable. 1849, s. 91. 1861, s. 89.

104. A Creditor (either on a Bond or negotiable Instrument or not) in respect of a Sum payable at a certain Time which has not arrived at the Date of an Act of Bankruptcy may petition or join in petitioning for Adjudication.

105. A Person

105. A Person entitled to petition for Adjudication against all the Members of a Partnership may petition for Adjudication against any One or more of the Members thereof.

Petition against One or more of Partners.
1849, s. 97.
1866, § 129.

106. A Creditor's Petition for Adjudication shall be verified by Affidavit of the Petitioner, or if a Corporation or Company or a Body empowered by Act of Parliament or otherwise to sue and be sued are Petitioners, then by Affidavit of some Person on behalf of the Petitioners, stating in his Affidavit his Authority in that Behalf.

Verification of Creditor's Petition.
1849, s. 89.
1861, ss. 87 92.
1866, §§ 111, 128.

107. Where a Creditor petitions for Adjudication the Court may before Adjudication summon before it any Person whom it believes capable of giving Information concerning the Trading (where requisite) or any Act of Bankruptcy committed by the Debtor, and may require any Person so summoned to produce any Books and Documents in his Custody, Possession, or Power appearing to the Court necessary to establish the Trading or an Act of Bankruptcy; and the Court may examine him on Oath orally, or by Interrogatories in Writing, concerning the Trading and any Act of Bankruptcy.

Witnesses to prove Trading and Act of Bankruptcy.
1849, s. 100.

108. Where a Creditor petitions for Adjudication, the Court, on Proof of the petitioning Creditor's Debt, the Trading (where requisite), and the Act of Bankruptcy, shall adjudge the Debtor Bankrupt.

Adjudication on Creditor's Petition.
1849, s. 101.
1866, § 116

109. Where a Creditor petitions for Adjudication, the Debtor, except as in this Act expressly otherwise provided, shall not be liable to be adjudged Bankrupt on an Act of Bankruptcy committed more than *Three Months* before the filing of the Petition.

Limitation for Adjudication after Act of Bankruptcy.
1849, s. 88.
1866, § 109.

110. Where a Creditor petitions for Adjudication against a Non-Trader, then, notwithstanding anything in this Act, the Debtor shall not be liable to be adjudged Bankrupt in respect of a Debt contracted before *the Sixth Day of August One thousand eight hundred and sixty-one.*

Date of Petitioning Creditor's Debt against Non-trader.
1861, s. 90.

111. Where a Creditor petitions for Adjudication against a Non-Trader, and the Act of Bankruptcy alleged is one constituted by Departure or Absence from England, or Conveyance, Surrender, Gift, Delivery, or Transfer of Property, Adjudication shall not be made, except subject and according to the following Provisions:

(1.) A Copy of the Petition for Adjudication shall be served personally on the Debtor in England, or in such Place or Country, or within such Limits, out of England as the Court directs:

Proceedings on Creditor's Petition against Non-trader departing, &c.
1861, s. 70.
1866, §§ 114, 116.

(2.) There shall be indorsed on the Copy served a Memorandum specifying the Time within which the Debtor is to appear on the Petition; and where the Service is to be made out of England, that Time shall be such Time as the Court thinks reasonable, having regard to the Place or Country where the Service is to be made:

(3.) In no Case shall the Time limited for Appearance be less than *Thirty Days* after Service:

(4.) If personal Service is not effected the Court must be satisfied that every reasonable Effort was made to effect the same, and that the Efforts to effect the same came to the Knowledge of the Debtor, and were defeated by his Conduct:

(5.) If at the Expiration of the Time limited for Appearance the Court on the Hearing of the Petition is satisfied that an Act of Bankruptcy has been committed it may adjudge the Debtor Bankrupt.

Debtor's Petition.

Petition by Debtor. 1849, s. 101.

112. A Debtor may petition for Adjudication against himself on an Act of Bankruptcy constituted by filing a Declaration of Insolvency as in this Act provided, but not on any other Act of Bankruptcy.

Statement of Debts, Property, &c. by Debtor petitioning. 1861, s. 93.

113. A Debtor petitioning for Adjudication against himself shall file in the Court a full and true Statement, verified by his Oath, of his Debts and Liabilities of every Kind, and of the Names and Residences of his Creditors, and of the Causes of his Inability to meet his Engagements, and of his Property and the estimated Value thereof.

Adjudication on Debtor's Petition. 1849, s. 101.

114. Where a Debtor petitions for Adjudication against himself, the Court, on the Application of the Petitioner, shall adjudge the Petitioner bankrupt, which Adjudication shall be absolute.

Proceedings on Petition.

Time for proceeding by Petitioner and Substitution of other Petitioner. 1849, s. 101. 1861, s. 96. 1866, § 117.

115. If the Petitioner does not proceed and obtain Adjudication, being a Creditor, within *Three Days*, and being a Debtor within *Twenty-four Hours*, after filing his Petition, or such further Time as the Court allows, any Creditor having a sufficient Debt may, within *Four* Days after the Expiration of the Time limited for the Proceedings of the Petitioner, apply to the Court for an Order to substitute the Applicant as Petitioner; and the Court may, if it thinks fit, so order, and thereupon shall proceed to hear and determine

determine the Petition; but if, within the Time allowed by this Section, Adjudication is not made, the Petition shall stand dismissed.

Dismissal of Petition against One or more.
1849, s. 97.
1866, § 129.

116. Where a Petition for Adjudication is filed against Two or more Persons, the Court may dismiss the same as to One or more of them; and such Dismissal shall not prejudice the Effect of the Petition as against the other or others of them.

Substitution on Insufficiency of petitioning Creditor's Debt.
1849, s. 10

117. If, after Adjudication on a Creditor's Petition, the Petitioner's Debt is shown to the Court to be insufficient to support the Adjudication, another Creditor having a sufficient Debt may apply to the Court for an Order that the Petition be proceeded with; and the Court may, if it thinks fit, so order, and thereupon the Adjudication, and all Proceedings thereunder, shall be as valid as if the Applicant had been Petitioner.

Power for Court to order Satisfaction for malicious Petition, &c.
1849, s. 267.

118. If the Debt stated by the Petitioning Creditor in his Affidavit or Petition to be due to him is not really due, or if, after a Petition for Adjudication filed, it is not proved that the Person against whom it is filed had committed an Act of Bankruptcy at the Time of the filing, and it also appears that the Petition was filed fraudulently or maliciously, the Court shall, on the Application of the Person against whom it was filed, examine into the same, and order Satisfaction to be made to him for the Damages by him sustained.

Petitioning Creditor compounding.
1849, s. 268.
1866, § 247.

119. If the Petitioning Creditor after Adjudication receives any Money Satisfaction or Security for his Debt, or any Part thereof, whereby he may receive more than other Creditors, he shall be liable to forfeit his whole Debt, and also to repay or deliver up such Money Satisfaction or Security, or the full Value thereof, to the Trustee, for the Benefit of the Creditors.

Petitioning Creditor's Costs.
1849, s. 114.
1866, § 118.

120. The Petitioning Creditor shall file and prosecute his Petition at his own Expense until the Choice of a Trustee; and subject to the Directions of the Court, his Costs in that Behalf shall, when taxed, be paid by the Trustee out of the First Money received by him in respect of the Bankrupt's Estate.

Validity of Adjudication, notwithstanding prior Act of Bankruptcy.
1849, s. 88.
1866, § 109.

121. Adjudication of Bankruptcy shall not be invalid by reason of an Act of Bankruptcy prior to the Debt of the Petitioning Creditor, provided there is a sufficient Act of Bankruptcy subsequent to that Debt.

122. If

Death of Bankrupt. 1849, s. 116. 1866, § 117.

122. If a Bankrupt dies after Adjudication, the Court may, if it thinks fit, order that the Proceedings in the Matter be continued as if he had not died.

Subsequent Petition against a Member or Members of same Partnership. 1849, s. 98. 1866, § 130.

123. After Adjudication on a Petition against a Member or Members of a Partnership, any other Petition for Adjudication against a Member or Members of the same Partnership shall be filed in the Court in which Adjudication on the first-mentioned Petition was made; and unless the Court otherwise directs, immediately after Adjudication on such other Petition, the Estate of the Bankrupt or Bankrupts thereunder shall vest in the Trustee in whom the Estate of the Bankrupt or Bankrupts under the first-mentioned Adjudication is then vested; and the Court may give such Directions as it thinks fit respecting the Proceedings on the Petitions.

Power to consolidate, &c. Proceedings on Petitions. 1861, s. 18. 1866, § 138.

124. The Court or the Court of Appeal may consolidate the Proceedings or any Part thereof under Two or more Petitions for Adjudication, or may impound any Petition for Adjudication and the Proceedings thereunder, or any Part thereof, on such Terms as the Court thinks fit.

Concerted Act of Bankruptcy. 1849, s. 115. 1866, § 131.

125. A Petition for Adjudication shall not be dismissed nor shall an Adjudication be annulled by reason only that the Petition, Adjudication, or Act of Bankruptcy was concerted or agreed on between the Bankrupt, or any Person on his behalf, and any other Person.

Submission to Adjudication. 1866, § 133.

126. If a Person against whom a Petition for Adjudication is filed files in the Court a Declaration signed by him either before or after the filing of the Petition (his Signature being attested by a Solicitor of the Court), to the Effect that he submits to Adjudication, Adjudication consequent thereon shall be absolute.

Showing Cause against Adjudication and annulling. 1849, s. 104. 1859, § 76. 1866, §§ 132, 133.

127. A Copy of the Order of Adjudication (where the same is not absolute) shall be served on the Person adjudged Bankrupt, personally or by Delivery thereof at his usual or last known Place of Abode or Business, or otherwise as the Court directs; and he shall be allowed *Seven Days*, or such further Time (not exceeding *Twenty-one Days* in the whole) as the Court thinks fit, from such Service, to show Cause to the Court against the Validity of the Adjudication; and unless he appears within that Time to show Cause, and then or afterwards, within a Time allowed by the Court, shows that the Petitioning Creditor's Debt, Trading (where requisite), or Act of Bankruptcy is insufficient to support the Adjudication, and no other Debt, Trading, or Act of Bankruptcy (as the Case requires), sufficient

cient to support the Adjudication is proved, or shows the Invalidity of the Adjudication on any other Ground, the Adjudication shall become absolute.

Gazette Notice of Adjudication.

128. Notice of Adjudication, when the same is or has become absolute, shall be gazetted.

Consent to Notice of Adjudication.

129. If a Person adjudged Bankrupt files in the Court, before the Expiration of the Time allowed for showing Cause against Adjudication, a Declaration, signed by him (his Signature being attested by a Solicitor of the Court), to the Effect that he consents to Notice of the Adjudication being gazetted, Notice thereof shall be forthwith gazetted accordingly.

Application to annul. 1849, s. 233. 1866, § 134.

130. After Adjudication is or has become absolute the Bankrupt may apply to the Court to annul the same within the Times following, but not afterwards :

If he was in the United Kingdom, the Channel Islands, or the Isle of Man, at the Time of Adjudication, then within *One Month* after Notice of Adjudication is gazetted :

If he was in any other Part of Europe at the Time of Adjudication, then within *Three Months* after Notice of Adjudication is gazetted :

If he was out of Europe at the Time of Adjudication, then within *Eight Months* after Notice of Adjudication is gazetted.

Order of Adjudication conclusive.

131. Subject to Appeal and to the Power of annulling under this Act, the Order of Adjudication, when the same is or has become absolute, shall be final and conclusive with respect to the Validity of the Adjudication and to the Existence of all Requisites thereto, and the Order shall not be liable to be disturbed or impeached at Law or in Equity, or otherwise, on any ground whatever, nor shall any of the Requisites to Adjudication of Bankruptcy be disputed or required to be proved in any Action, Suit, or Proceeding ; and accordingly, on Proof of the Order of Adjudication, the Bankrupt shall, in all Courts and to all Intents whatever, be conclusively deemed to have been duly adjudged Bankrupt, and shall be deemed to be Bankrupt, unless and until it is shown that the Adjudication has been reversed on Appeal or has been annulled.

Time for Surrender.

132. Notice of Adjudication shall prescribe a Time within which the Bankrupt is required to surrender, which Time the Court may, if it thinks fit, from Time to Time enlarge.

Power to dispense with personal Appearance for Surrender. 1859, § 77.

133. If a Person adjudged Bankrupt files in the Court before the Expiration of the Time allowed for showing Cause against Adjudication a Declaration signed by him (his Signature being attested by a Solicitor of the Court), to the Effect that he surrenders, the Court may on his Application, if it thinks fit, dispense with his personal Attendance for Surrender, and he shall thereupon be deemed to have duly surrendered.

Surrender after Apprehension. 1849, s. 161.

134. If the Bankrupt, having been apprehended by Warrant of the Court within the Time allowed for Surrender, submits to be examined, and in all respects conforms, he shall have the same Benefit as if he had voluntarily surrendered.

Protection of Bankrupt in coming to Surrender, &c. 1849, s. 112.

135. If the Bankrupt is not in Prison or in Custody at Adjudication he shall be free from Arrest in coming to surrender, and after Surrender during the Time limited for Surrender and until the Time appointed for his last Examination, and for such Time after passing his last Examination until his Order of Discharge takes effect as the Court from Time to Time by Indorsement on his Summons thinks fit to appoint.

Bringing up of Bankrupt when in Custody. 1849, s. 112.

136. If the Bankrupt is in Prison or in Custody under any Process, Attachment, Execution, Commitment or Sentence, the Court may by Warrant directed to the Person in whose Custody he is, cause him to be brought before it at any Sitting either Public or Private, and such Person shall be indemnified by the Warrant of the Court for bringing him up; and if he is desirous to surrender, he shall be brought up and the Expense thereof shall be paid out of his Estate.

Discharge of Bankrupt on Production of Protection. 1849, s. 113.

137. If the Bankrupt in coming to surrender, or after Surrender and while protected, is arrested for Debt or on an Escape Warrant, he shall, on producing his Protection to the Officer arresting him, and giving to such Officer a Copy thereof, be immediately discharged; and if any Officer detains the Bankrupt, after he has produced his Protection to the Officer, beyond the Time necessary for obtaining a Copy thereof, the Officer shall be liable to forfeit a Sum not exceeding *Five Pounds* for every Day during which he detains the Bankrupt.

Warrant of Arrest and Seizure against Person about to quit England, &c. 1849, s. 99. 1866, § 135.

138. If after the Filing of the Petition for Adjudication it is shown to the Satisfaction of the Court that there is probable Cause for believing that the Person against whom Adjudication is sought is about to quit England, or to remove or conceal any of his Property with Intent to defraud, unless he is forthwith apprehended,

hended, the Court may, if it thinks fit, issue a Warrant directed to a Messenger of the Court and his Assistants, or to such Persons as the Court thinks fit, whereby such Messenger, Assistants, and Persons shall have Authority to arrest the Person against whom Adjudication is sought, wherever found, and to seize his Books, Documents, and Personal Property, wherever found, and him and them safely keep until Adjudication or the Expiration of the Time allowed for Adjudication on such Petition; but the Person against whom such Warrant is issued may, at any Time after Arrest or Seizure thereunder, obtain from the Court an Order on the petitioning Creditor to show Cause why he should not be discharged out of Custody, or why the Things seized should not be delivered up to him, and the Court may, if it thinks fit, on Cause being shown, make absolute or discharge such Order.

1856, ss. 67–76.
1866, §§ 143–155.

Part VII.—Choice of Trustee and Inspectors.

Appointment of First Meeting of Creditors.

139. The Order of Adjudication shall appoint a Meeting of the Creditors of the Bankrupt (in this Act referred to as the First Meeting).

The Order shall prescribe the Day, Hour, and Place for the First Meeting.

The Day shall be not less than *Six* or more than *Twelve* Days after the Adjudication is or becomes absolute.

The Place shall be the Court, unless the Order directs that it be some other Place specified within the Jurisdiction of the Court, not being any private Residence, Chambers, or Office.

Gazetting of Notice for Meeting.

140. The Day, Hour, and Place for the First Meeting shall be gazetted.

Registrar to attend Meeting.

141. The Registrar, or some fit Person appointed by him for this purpose by Writing signed by him, shall attend the First Meeting.

Choice of Trustee.

142. At the First Meeting the Creditors shall choose a fit Person (whether a Creditor or not) to be the Trustee of the Estate and Effects of the Bankrupt.

Security and Remuneration of Trustee.

143. The Creditors from Time to Time may require the Trustee to give such Security (if any) as they think fit, and may make such Provision as they think fit for his Remuneration, subject to the Approval of the Court respecting the Nature of the Remuneration, and to Taxation respecting the Amount thereof.

 144. When

Confirmation or Rejection by Court.

144. When the Trusteeship has been accepted by the Person chosen Trustee the Court shall by Order either confirm the Choice, or reject the Person chosen if he appears to the Court unfit to be Trustee; and any Order of Confirmation or Rejection shall not be subject to Review or Appeal.

Notice of an Order of Confirmation shall be gazetted.

Choice of Inspectors.

145. At the First Meeting the Creditors shall choose *Two* or more fit Persons, being Creditors, to superintend the Administration of the Bankrupt's Estate by the Trustee, and to be called the Inspectors of the Bankrupt's Estate.

Resignation or Removal of Trustee.

146. The Trustee or Inspectors, or *One Fourth* in value of the Creditors who have proved their Debts, may at any Time apply to the Court for the Acceptance of the Resignation or for the Removal of the Trustee, and the Court may if it thinks fit make Order accordingly.

Appointment of new Trustee.

147. In case of the Rejection by the Court of a Person chosen Trustee, and on the Resignation, Removal, or Death of a Trustee, the Court shall appoint another Meeting of Creditors for the Choice of a Trustee, and like Proceedings shall be had, and the Court shall have the like Power, as on the original Choice; and a new Trustee shall have like Powers, Authorities, and Discretion as an original Trustee; and all Property and Rights vested in any Trustee shall, on his ceasing to be Trustee, and on a new Trustee succeeding him, be transferred to and vested in the new Trustee; and so toties quoties.

Choice of new Inspector.

148. An Inspector may at any Time resign his Office by Notice in Writing signed by him delivered to the Trustee; and an Inspector may be removed by Resolution of a Meeting of the Creditors, (*Fourteen Days* Notice in Writing of such Meeting having been given to him by any *Two* Creditors who have proved their Debts); and on any such Resignation or Removal, or on the Death of an Inspector, the Court shall appoint another Meeting of Creditors for the Choice of an Inspector, and like Proceedings shall be had as on the original Choice; and a new Inspector shall have like Powers, Authorities, and Discretion as an original Inspector; and so toties quoties.

Regularity of Proceedings notwithstanding Want of Inspection.

149. Any Act or Proceeding of the Trustee or of the Creditors shall not be affected by reason only of any Vacancy in the Office of Inspector, or by reason only of any Failure to elect or any Defect or Irregularity in or about the Election of an Inspector.

150. Where

150. Where a Person adjudged Bankrupt is a Member of a Partnership, any Person to whom he is indebted jointly with the other Partners or any of them shall for the Purposes of this Part of this Act be deemed a Creditor of the Bankrupt. Creditors in Cases of Partnership.

Part VIII.—Secured Creditors; Meetings.

151. If a Creditor holds a Security for his Debt, or any Part thereof, on the Bankrupt's Estate, he shall (unless he gives up his Security) be reckoned a Creditor for the Purpose of petitioning for Adjudication, voting at Meetings, and Receipt of Dividends, in respect of the Balance only of his Debt, after selling or disposing of his Security, or giving Credit for the Value thereof, estimated as the Court directs or approves. Rights of secured Creditor. 1856, s. 59. 1866, § 175.

152. With respect to Meetings of Creditors the following Provisions shall have effect: Rules respecting Meetings. 1856, ss. 101, 63. 1861, s. 229. 1866, § 204.

(1.) Proof of Debts may be received at any Meeting.

(2.) Creditors who prove before or at any Meeting shall alone have Votes at it.

(3.) A Creditor may be represented at a Meeting by a Proxy.

(4.) A Meeting shall not be competent to act for any Purpose under this Act unless there are present or represented thereat at least *Three* Creditors, or all the Creditors, if their Number does not exceed *Three*.

(5.) Questions at a Meeting shall be determined, except where otherwise provided in this Act, by the Majority in Value of the Creditors present or represented thereat.

(6.) Any Meeting may be adjourned, and any Adjournment shall be equivalent to the original Meeting.

153. Where by this Act anything is directed or authorized to be done by Creditors (collectively), the same may be done at a Meeting of Creditors, and not otherwise. Creditors to act at Meeting.

154. The Trustee shall from Time to Time convene a Meeting of the Creditors at such Times as the Creditors at the First Meeting or afterwards from Time to Time direct; and in the Absence of any such Direction then according to General Orders. Holding of Meetings. 1856, ss. 96. and foll. 1866, § 200.

155. Notices of Meetings of Creditors shall be gazetted, and shall also be given in such Manner (if any) as the Creditors at the First Meeting or afterwards from Time to Time direct, or in the Absence of such Direction as the Inspectors from Time to Time direct. Notices of Meetings. 1856, ss. 99, 100. 1866, § 203.

Special Meetings.

156. For the Purposes of this Act a Meeting of Creditors shall be deemed to be a Special Meeting when not less than *Ten Days* previous Notice of the Meeting has been gazetted, and the Business to be transacted at the Meeting is specially stated in the Gazette Notice convening the Meeting.

A Special Meeting shall not enter on any Business other than that stated in the Notice convening it.

Part IX.—Last Examination and Accounts.

Last Examination. 1861, s. 140.

157. The Court shall forthwith after the First Meeting appoint a public Sitting, on a Day not later than *Sixty* Days from the Date of that Meeting (Notice whereof shall be given in the Gazette and in such Newspapers as the Court thinks fit), for the Bankrupt to pass his last Examination, and, unless the Court otherwise directs, to make Application for his Discharge; but the Court may, if it thinks fit, enlarge the Time appointed for such Sitting, or adjourn the same.

Adjournment of last Examination sine die. 1849, s. 162.

158. The Court may at the Time appointed for the last Examination of the Bankrupt, or at any Enlargement or Adjournment thereof, adjourn the Examination sine die; and in that Case the Bankrupt shall be free from Arrest or Imprisonment for such Time (if any) as the Court from Time to Time by Indorsement on his Summons thinks fit to appoint.

Bankrupt's Statement of Accounts. 1861, s. 141.

159. The Bankrupt shall prepare and sign a Statement of his Accounts, and file it in the Court before the Day appointed for the last Examination or the Adjournment thereof; and such Statement may, before the last Examination, be amended from Time to Time as Occasion requires or the Court directs; and the Bankrupt shall verify the same on Oath whenever required by the Court; and the last Examination shall in no Case be passed unless such Statement has been duly filed.

Assistance in preparing Statement to Bankrupt in Custody. 1849, s. 163.

160. Where the Bankrupt is in Prison or in Custody, the Court may appoint a Person to attend him from Time to Time, to produce to him his Books and Documents, in order that he may prepare his Statement of Accounts.

Statement of Accounts open to Creditors. 1861, s. 142.

161. The Statement of Accounts when filed shall be open to the Inspection of all Creditors, and they may take Copies of or Extracts from the same, subject to Regulations by General Orders; and within *Seven Days* from the filing thereof an Abstract thereof shall be

be made and printed, and a printed Copy of such Abstract shall be sent by Post by the Trustee to each Creditor who has proved.

Trustee's Report on State of Bankrupt's Affairs. 1861, s. 143.

162. In the Preparation of such Statement the Bankrupt shall be assisted by the Trustee, who shall prepare and file in Court, together with such Statement, a Report on the State of the Bankrupt's Affairs, setting forth such Facts and Particulars as are, in the Opinion of the Trustee, important for the Court to be informed of; but if in any Case there appear to the Court special Reasons why the Bankrupt should be assisted in the Preparation of such Statement by some Person other than the Trustee, the Court may nominate some Person in that Behalf, and may allow him out of the Bankrupt's Estate such Remuneration as to the Court on Taxation seems just; and in that Case the Statement shall have appended thereto a Certificate by the Person so appointed of his Approval or Disapproval thereof, and in case of Disapproval the Particulars and Reasons of such Disapproval.

Examination of Statements of Account, and List of Creditors. 1861, s. 147. 1849, ss. 198–207. 1859, §§ 125–142. 1861, ss. 157–172. 1866, §§ 279–289.

163. The Trustee shall examine all the Statements of Account aforesaid, and compare the same with the Books and Documents of the Bankrupt, and shall from Time to Time make out a List of the Creditors who have proved, stating the Amount and Nature of the Debts, which List shall be open to the Inspection of any Creditor who has proved.

Part X.—Order of Discharge.

Order of Discharge.

164. Subject to the Provisions of this Act, after the Bankrupt passes his last Examination the Court shall on his Application make in his Favour an Order (to be called an Order of Discharge) discharging him from Debts, Claims, and Demands proveable under the Bankruptcy.

Notice of and Opposition to Application.

165. Notice of the Bankrupt's Intention to apply for an Order of Discharge shall be gazetted and shall be given to the Trustee; and the Trustee, or any Creditor (including, where the Bankrupt is a Member of a Partnership, any Joint Creditor) who has proved, may be heard in opposition to the Application.

Inquiry into Bankrupt's Conduct.

166. Whether the Order is opposed or not, the Court, having regard to the Bankrupt's Conformity to the Law of Bankruptcy, and to his Conduct relative to his Trade, Business, Property, or Affairs before and after Adjudication, shall judge of any Objection to an immediate Order of Discharge.

 167. Whether

Suspension of Order of Discharge.

167. Whether the Order of Discharge is opposed or not, the Court may, if it thinks fit, in and by the Order suspend the Order from taking effect, as follows, namely,—for any Time not exceeding *Three Years* from the Date of the Order, if it appears to the Satisfaction of the Court—

1. That the Bankrupt has been guilty of any of the Acts by this Act made Misdemeanours, but has not been convicted thereof;
2. That he has, within *Two Months* next before Adjudication, fraudulently, in contemplation of Bankruptcy, and not under Pressure from any of his Creditors, with Intent to diminish the Sum to be divided among his Creditors, or to give an undue Preference to any of his Creditors, paid or satisfied any of his Creditors, wholly or in part, or made away with, mortgaged, or charged any Part of his Property;
3. That he has, within *Six Months* next before Adjudication, put any Creditor to unnecessary Expense by vexatious or frivolous Defence or Delay to or in any Proceeding for the Recovery of any Debt or Demand proveable under his Bankruptcy, or is indebted in Costs incurred in any such Proceeding vexatiously or frivolously defended or delayed by him;
4. That, having been to his Knowledge or Belief unable to meet his Engagements with his Creditors, he, without reasonable Excuse, failed to file or delayed the filing of a Declaration of Insolvency;
5. That he, being a Trader, has during his trading, with Intent to conceal the State of his Affairs, omitted to keep proper Books of Account, or kept his Books of Account imperfectly; or,
6. That any Debt or Liability of the Bankrupt subsisting at the Time of Adjudication, or paid or discharged within *Three* Months next before Adjudication, was contracted or incurred by him without any reasonable Expectation of his being able to pay or discharge it, or by or through any Fraud or false Pretence or Breach of Trust committed by him, or that Forbearance of any such Debt or Liability had been obtained by the Bankrupt by Fraud or false Pretence, or that any such Debt or Liability had been contracted or incurred by him by reason of any Prosecution or Proceeding wherein he was found guilty of any Offence, or of a Breach of the Revenue Laws, or by reason of any Action or Proceeding for Libel, Slander, Assault, Battery, Adultery, Seduction, Breach of Promise of Marriage, malicious Arrest, malicious Prosecution, malicious Trespass, or malicious Injury, or the malicious filing or Prosecution of a Petition for Adjudication of Bankruptcy;—

or for any Time not exceeding *One Year* from the Date of the Order, if it appears to the Satisfaction of the Court that any Objection to an immediate Order exists on any Ground not herein-before specified.

Order to take effect from Date.

168. In all Cases other than those in the last foregoing Section mentioned, the Order of Discharge shall take effect immediately from its Date.

Suspension not to run after Punishment for Misdemeanour.

169. Where the Bankrupt is convicted of any of the Acts by this Act made Misdemeanours, any Suspension of the Order of Discharge ordered by the Court shall not continue in force after his Conviction.

Plea of Discharge.

170. If the Bankrupt, after the Order of Discharge takes effect, is arrested or sued for any Debt, Claim, or Demand proveable under the Bankruptcy, he shall be discharged on entering an Appearance, and may plead in general that the Cause of Action accrued before he was adjudged Bankrupt, and may give this Act and the special Matter in Evidence; and the Order of Discharge shall be sufficient Evidence of the Bankruptcy and of the Proceedings precedent to the Order of Discharge.

Discharge from Custody on subsequent Arrest.

171. If the Bankrupt, after the Order of Discharge takes effect, is arrested or detained in Custody for a Debt, Claim, or Demand proveable under the Bankruptcy, where Judgment has been obtained before the Order of Discharge takes effect, a Judge of a Superior Court of Law shall, on Proof of the Order of Discharge, and unless there appears good Reason to the contrary, direct the Officer who has the Bankrupt in custody to discharge him, which shall be done accordingly without Fee.

Contract after filing of Petition.

172. After the Order of Discharge takes effect the Bankrupt shall not be liable to pay or satisfy any Debt, Claim, or Demand proveable under the Bankruptcy, or any Part thereof, on any Contract or Promise made after Adjudication; and if he is sued on any such Contract or Promise he may plead in general that the Cause of Action accrued pending Proceedings in Bankruptcy, and may give this Act and the special Matter in Evidence.

Operation of Discharge on Process for Contempt.

173. The Order of Discharge shall discharge the Bankrupt from the Effects of any Process issuing out of any Court for Contempt of any Court for Nonpayment of Money or of Costs or Expenses in any Court, and from all Costs, Fees, or Charges which he would be liable to pay in consequence of or on purging his Contempt; and a

Bankrupt in Custody under any such Process shall, on obtaining an Order of Discharge, be entitled to be discharged from such Custody forthwith.

Exception of Crown Debts, &c.

174. The Order of Discharge shall not discharge the Bankrupt from any Debt due to the Crown, or any Debt or Penalty with which he stands charged at the Suit of the Crown or of any Person for any Offence against a Statute relating to any Branch of the Public Revenue, or at the Suit of the Sheriff or other public Officer on a Bail Bond entered into for the Appearance of any Person prosecuted for any such Offence, unless the Commissioners of Her Majesty's Treasury certify in Writing their Consent to the Bankrupt being so discharged.

Exception of joint Debtors.

175. The Order of Discharge shall not release any Person who, at the Time of Adjudication, was a Partner with the Bankrupt, or was jointly bound or had made any joint Contract with him.

Contract with Creditor not to oppose.

176. Any Contract, Covenant, or Security made, entered into, or given by the Bankrupt, or by any other Person, with, to, or in trust for a Creditor of the Bankrupt, for securing the Payment of any Money as a Consideration or with Intent to persuade the Creditor to forbear opposing the Order of Discharge, or to forbear to apply for a Re-hearing of the Order, shall be deemed to have been given on an illegal Consideration; and the Party sued thereon may plead in general that the Cause of Action accrued pending Proceedings in Bankruptcy, and may give this Act and the special Matter in Evidence.

Time for drawing up of Order.

177. The Order of Discharge shall not be drawn up until after the Expiration of the Time allowed for Appeal, or, if an Appeal is brought, until after the Decision of the Court of Appeal on the Appeal, and shall bear Date either the Day after the Expiration of the Time allowed for Appeal, or the Day of the Decision of the Court of Appeal, as the Case requires.

Review and Rehearing.

178. The Order of Discharge, whether suspended or not, shall not be reviewed by the Court, unless the Court sees good Cause to believe that the Order or the Suspension thereof was obtained on false Evidence, or by reason of the Suppression of Evidence, or otherwise fraudulently, in any of which Cases the Court may, if it thinks fit, on the Application of the Trustee or of a Creditor who has proved, or of the Bankrupt, and subject to such Deposit for Costs, and to such Notice, by Advertisement or otherwise, as the Court thinks fit, grant a Rehearing of the Matter and rehear it accordingly

accordingly; and on rehearing the Court shall make such Order as it thinks just, in like Manner as it might on an original Hearing.

Protection of subsequent Creditors.

179. If on rehearing the Court suspends the Order of Discharge, all Persons having become Creditors of the Bankrupt between the Time of the Order originally taking effect and the Time of its Suspension being ordered on rehearing, shall as against any Property acquired by the Bankrupt during the same Period, and in priority to the original Creditors, be admitted to prove and have Dividends under the Bankruptcy.

Forfeiture for Inducement to forbear Opposition, &c.

180. If any Creditor of a Bankrupt obtains any Money, Security, or Property from any Person as an Inducement for forbearing to oppose the Bankrupt's Discharge, or to forbear to appeal against the same, he shall be liable to forfeit treble the Amount or Value of such Money, Security, or Property.

Part XI.—Consequences of Adjudication with respect to Property.

Vesting of Personal Property in Trustee.
1849, s. 141.
1866, § 221.

181. Where any Person is adjudged Bankrupt, all his Personal Property present and future, and all Personal Property which comes to him before he obtains his Discharge, and all Debts due or to be due to him, and all his Interest therein, shall, by virtue of the Order confirming the Choice of the Trustee, become absolutely vested for such Interest as the Bankrupt has therein in the Trustee for the Time being for the Benefit of the Creditors of the Bankrupt.

Recovery of Personal Property and Debts, &c.
1849, s. 141.
1866, § 221.

182. After Adjudication neither the Bankrupt nor any Person claiming through or under him shall have Power to recover any Personal Property or Debt, or to make any Release or Discharge thereof, nor shall the same be attached for any Debt of the Bankrupt by any Person, and the Trustee for the Time being shall have like Remedy to recover the same in his own Name, as the Bankrupt himself might have had if he had not been adjudged Bankrupt.

Retention of excepted Articles.
1854, s. 25.

183. The Bankrupt may retain for the Use of himself and his Family as excepted Articles such Articles of Household Furniture and Tools, Implements of Trade, and other like Necessaries as he specifies and selects, not exceeding in the whole the Value of *Ten* Pounds, and such excepted Articles shall not be subject to be sold and disposed of in the Bankruptcy, or to be taken in Execution by any Creditor entitled to prove under the Bankruptcy.

 184. Where

Vesting of Real Property in Trustee.
1849, s. 142.
1866, § 213.

184. Where any Person is adjudged Bankrupt all Real Property (other than Lands of Copyhold or Customary Tenure) in the British Dominions of, to, or in which at any Time before he obtains his Discharge he is seised, possessed, or entitled, or has any beneficial Interest whereof he may by Law dispose, shall become absolutely vested, for such Estate or Interest as the Bankrupt has therein, in the Trustee for the Time being, for the Benefit of the Creditors of the Bankrupt, by virtue of the Order confirming the Choice of the Trustee.

Registration of Order of Confirmation, &c.
1849, s. 143.
1866, § 214.

185. The Certificate that a Provisional Trustee is the sole Trustee of an Estate, and the Order confirming the Choice of the Trustee, shall, for the Purposes of any Act or Law in force in any Part of the British Dominions requiring Registration, Enrolment, or recording of Conveyances or Assignments of Property, be deemed to be a Conveyance or Assignment of Property, and may be registered, enrolled, and recorded accordingly.

Application of Fines and Recoveries Act.
3 & 4 Will. 4. c. 74.
1849, s. 208.
1866, § 215.

186. Sections Fifty-six to Seventy-three (both inclusive) of the Act of the Session of the Third and Fourth Years of the Reign of King William the Fourth (Chapter Seventy-four), "for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance", shall extend and apply to Proceedings in Bankruptcy under a Petition for Adjudication, as if those Sections were here re-enacted and made applicable in Terms to such Proceedings.

Vesting Order as to Copyholds.
1849, s. 209,
1859, §§ 118. 119, 120.
1861, s. 114.
1866, § 216.

187. The Court may dispose, for the Benefit of the Creditors, of any Estate or Interest at Law or in Equity which the Bankrupt has in any Lands of Copyhold or Customary Tenure, and may make an Order vesting the Lands, or such Estate or Interest as the Bankrupt has therein, in such Person and in such Manner as the Court thinks fit.

Where the Bankrupt's Estate or Interest is an Estate or Interest in Equity only, the same shall vest by force of and according to such Order without other Assurance.

Where the Bankrupt's Estate or Interest is not an Estate or Interest in Equity only, the vesting Order shall be entered on the Court Rolls of the Manor of which the Lands are parcel (which Entry the Lord, or his Steward, or Steward's Deputy is hereby required to make), and shall be equivalent to a proper Surrender or Deed of or concerning the same Lands, and if made with the Consent of the Lord shall be equivalent to both Surrender or Deed and Admittance.

188. Where

Leases and Conveyances at Rent.
1849, s. 145.
1861, s. 131.
1866, § 217.

188. Where at Adjudication the Bankrupt holds a Lease or Agreement for a Lease, or holds Lands subject to a perpetual yearly Rent reserved by the Conveyance or Agreement for Conveyance thereof, the following Provisions shall have effect:—

(1.) The Liability of the Bankrupt in respect thereof shall cease on Adjudication:

(2.) On or before the first quarterly or half-yearly Day after Adjudication on which Rent is payable in respect of such Lease, Agreement, or Conveyance, not being later than *Six Months* after Adjudication, the Trustee, by Writing signed by him (his Signature being attested by a Solicitor) and filed in the Court, shall elect to take or to decline the Lease, Agreement, or Conveyance, and the Bankrupt's Estate shall continue liable until such Election as if there had been no Adjudication:

(3.) If the Trustee elects to take the Lease, Agreement, or Conveyance, the Bankrupt's Estate shall continue liable as if there had been no Adjudication:

(4.) If the Trustee elects to decline the Lease, Agreement, or Conveyance, or fails to elect, the Land comprised therein shall go and remain to the Person entitled thereto subject to the Lease, Agreement, or Conveyance, and shall be as if the Lease, Agreement, or Conveyance had not been made.

Agreement for Purchase.
1849, s. 146.
1866, § 217.

189. Where before Adjudication the Bankrupt has entered into an Agreement for the Purchase of any Estate or Interest in Lands, the Vendor thereof, or any Person claiming under him, if the Trustee does not (on being required) elect to complete or to abandon the Agreement, may apply to the Court, and the Court may thereupon order the Trustee to deliver up the Agreement and the Possession of the Property to the Vendor or Person claiming under him, or may make such other Order as the Court thinks fit.

Transfer of Stock.
1849, s. 128.
1866, § 222.

190. Where the Bankrupt has any Government Stock, Funds, or Annuities, or any of the Stock of any public Company in the United Kingdom, standing in his Name, in his own Right, all Persons whose Act or Consent is necessary in this Behalf shall transfer such Stock, Funds, or Annuities into the Name of the Trustee, and pay all Dividends then due or thereafter to accrue due thereon to the Trustee.

Payment of Money by Agent.
1849, s. 132.
1866, § 222.

191. Any Treasurer or other Officer, or any Banker, Attorney, Solicitor, or other Agent of the Bankrupt, shall pay and deliver over to the Trustee all Money and Securities in his Custody, Possession, or Power as such Officer or Agent which he is not by Law entitled to retain as against the Bankrupt or the Trustee.

 192. If

Order of Court for Payment of Amount admitted on Examination.
1849, s. 123.
1866, § 235.

192. If any Person on Examination before the Court admits that he is indebted to the Bankrupt on the Balance of Accounts, the Court may, if it thinks fit, order him, at such Time and in such Manner as to the Court seems expedient, to pay to the Trustee the Amount admitted, with, if the Court thinks fit, the Costs of the Examination, without Prejudice to the Recovery, in like Manner as if this Enactment had not been made, of any Amount not admitted or not ordered by the Court to be paid: Provided that such an Order shall not be made unless there is present, at the Time of the Admission being made, a Solicitor or Attorney acting for the Person examined, either employed by himself, or appointed by the Court in case of his Refusal to employ one.

Order and Disposition.
1849, s. 125.
1866, § 234.

193. If the Bankrupt at the Time when he becomes Bankrupt has in his Possession, Order, or Disposition, by the Consent and Permission of the true Owner thereof, any Goods or Chattels whereof he was reputed Owner, or whereof he had taken upon him the Sale, Alteration, or Disposition as Owner, the Court may order the same to be sold, disposed of, or applied for the Benefit of the Creditors under the Bankruptcy; but nothing herein shall affect any Transfer or Assignment of any Ship or any Share thereof made as a Security for any Debt by way of Mortgage duly registered according to the Enactments relative to the Registration of Ships for the Time being in force.

Conveyances, &c. made by Bankrupt while embarrassed.
1849, s. 126.
1866, § 237.

194. If any Person being insolvent, conveys, assigns, transfers, or pays to any of his Children or to any other Person (except on the Marriage of any of his Children, or for some valuable Consideration,) any Real or Personal Property, Bond, negotiable Instrument, Chose in Action, or Money, and is afterwards adjudged Bankrupt, the Court may order the same to be sold, disposed of, or applied for the Benefit of the Creditors under the Bankruptcy.

Fraudulent Extents in aid.
1849, s. 127.
1866, § 238.

195. If any Real or Personal Property of or Debts due to the Bankrupt is or are extended after he is adjudged Bankrupt by any Person alleging himself to be an Accountant or Debtor to the Crown, the Court may examine on Oath whether the Debt alleged to be due to such Accountant or Debtor was due to him on any Contract originally made between him and the Bankrupt, and if it appears to the Court to be due on any Contract originally made with or in trust for any Person other than such Accountant or Debtor, the Court may order such Real or Personal Property or Debts to be sold for the Benefit of the Creditors under the Bankruptcy, and the Sale shall be valid against the Extent, and all Persons claiming under it, and the Purchaser may recover the Property

Property or Debts purchased by him from any Person detaining the same.

196. It shall not be lawful for any Person adjudged Bankrupt to execute, either before or after he obtains his Discharge, any Power of Appointment or other Power vested in him, so as to defeat or destroy any contingent or other Estate or Interest in any Property to which he was at or before his Discharge beneficially entitled in default of Appointment or otherwise in case of Non-execution of the Power. Restriction on Execution of Powers. 1866, § 219.

197. Powers vested in the Bankrupt which he might legally execute for his own Benefit (except the Right of Nomination to a vacant Ecclesiastical Benefice) may be executed by the Trustee for the Benefit of the Creditors, as the Bankrupt might have executed the same. Execution of Powers. 1849, s. 147. 1866, § 218.

Part XII.—Possession, Collection, and Management of Estate.

198. A Certificate of the Court to which a Provisional Trustee is attached, to the effect that the Provisional Trustee therein named is the sole Trustee of an Estate, shall be Evidence thereof. Certificate of Office of Provisional Trustee.

199. The Provisional Trustee shall, immediately on Adjudication, take possession of the Bankrupt's Estate, and shall retain Possession thereof until the Choice of a Trustee by the Creditors, and the Confirmation of such Choice; but if the Provisional Trustee, or if the Court, on the Representation of any Creditor, is of opinion that the keeping Possession of the Bankrupt's Estate is not requisite for the due Protection of the Creditors, such Possession shall not be continued. Possession by Provisional Trustee. 1861, s. 108.

200. Before the Choice of a Trustee by the Creditors, the Messenger shall follow the Instructions of the Provisional Trustee (subject to the Directions and Control of the Court) with respect to the taking or keeping Possession of any Part of the Bankrupt's Estate. Messenger to follow Instructions of Provisional Trustee. 1854, s. 23.

201. Until the Order confirming the Choice of Trustee is made the Provisional Trustee shall have and perform and may exercise all the Rights, Duties, and Powers by this Act vested in and imposed on the Trustee, and all Provisions of this Act relative to the vesting of the Estate of the Bankrupt, and to the Rights, Duties, and Powers of the Trustee, shall accordingly be read as extending and applying Powers and Duties of Provisional Trustee.

applying to the Provisional Trustee as from Adjudication and by virtue thereof, but the Provisional Trustee shall in all respects act subject and according to the Directions of the Court.

Transfer from Provisional Trustee to Trustee.

202. Immediately on the making of an Order confirming the Choice of Trustee, the Estate of the Bankrupt vested in the Provisional Trustee shall, by virtue of the Order and without any Conveyance or Assignment, be transferred to and become absolutely vested in the Trustee, in trust for the Benefit of the Creditors

Management, &c. of Estate.
1856, s. 82.
1866, § 206.

203. The Trustee shall get in, recover, and manage the Bankrupt's Estate, and convert the same into Money, according to Directions given by the Creditors at the Meeting for the Choice of a Trustee, or afterwards from Time to Time, or, in the Absence of such Direction, according to the Directions of the Inspectors.

Delivery of Documents to Trustee.
1849, s. 105.
1866, § 205.

204. Not later than *Twenty-four Hours* after Notice of Adjudication is gazetted, the Bankrupt shall, if required, deliver up to the Trustee, on Oath, all Books and Documents relating to his Estate in his Possession, Custody, or Power, and discover such as are in the Possession, Custody, or Power of any other Person.

Seizure of Property in Prison, &c.
1849, s. 109.
1866, § 230.

205. Where the Bankrupt is in Prison or in Custody, any Person, acting under Warrant of the Court, may seize any Property of the Bankrupt (his necessary Wearing Apparel only excepted) in the Bankrupt's Custody or Possession, or in that of any other Person, in the Prison or in the Place where the Bankrupt is in Custody.

Execution of Search Warrant.
1849, s. 109.
1866, § 230.

206. Any Person acting under a Search Warrant of the Court may break open any House, Building, or Room of the Bankrupt, where the Bankrupt is supposed to be, or any Building or Receptacle of the Bankrupt where any of his Property is supposed to be, and seize on his Property there.

Search Warrant.
1849, s. 106.
1866, § 228.

207. Where the Court is satisfied that there is Reason to believe that Property of the Bankrupt is concealed in a House or Place not belonging to him, the Court may, if it thinks fit, grant a Search Warrant to the Messenger and his Assistants or other Person appointed by the Court, who may execute the same according to the Tenour thereof, and shall in respect of the Execution thereof have the like Protection as is allowed by Law in respect of the Execution of a Search Warrant for Property supposed to be stolen.

208. A Search

Execution of Search Warrant in Scotland or Ireland. 1849, s. 110, 111. 1866, § 231.

208. A Search Warrant of the Court may in like Manner be executed in Scotland or Ireland, provided—

(1.) That the Warrant is verified on Oath before, and is backed by, a Justice of the Peace for the County in which or for the Place in or near which it is executed:

(2.) That the Person bringing the Warrant satisfies the Justice that he is a Person authorized to execute it.

Execution of Search Warrant in Place not specified. 1859, § 81.

209. Where a Justice of the Peace for the County in which, or for the Place in or near which, a Search Warrant of the Court is to be executed is satisfied that there is Reason to believe that Property to which the Warrant relates is concealed in a House or Place other than that mentioned in the Warrant, the Justice may back the Warrant, describing thereon such other House or Place, and thereupon the Warrant may be executed according to the Tenour thereof as backed.

Concealing Bankrupt's Property. 1849, s. 269. 1866, § 236.

210. If any Person wilfully conceals Property of the Bankrupt, and does not within *Forty-two* Days after the filing of the Petition for Adjudication discover the same to the Court or to the Trustee, he shall be liable to forfeit double the Value of the Property concealed, and a Sum not exceeding *One hundred Pounds*.

Reward for Discovery of Property. 1849, s. 269. 1866, § 236.

211. If any Person, after the filing of the Petition for Adjudication, voluntarily discovers to the Trustee Property of the Bankrupt not known to the Trustee, he shall be entitled to receive thereout as Reward *One Twentieth* Part of the Amount or Value thereof, and such further Sum (if any) as the Creditors think fit.

Suits for and Application of Forfeitures. 1849, s. 275. 1866, § 323.

212. A Forfeiture under this Act may be sued for in any Court of competent Jurisdiction by the Trustee of the Estate of the Bankrupt in relation to whom or whose Estate the Forfeiture is incurred, and the Amount recovered, after Deduction of the Costs, Charges, and Expenses of Recovery, shall be applied as Part of the Bankrupt's Estate, after Exhaustion of the other Assets, and any Surplus thereof after Payment of the Creditors in full, shall be paid to the Chief Registrar's Account.

Post Letters addressed to Bankrupt. 1849, s. 124. 1866, § 194.

213. The Court may from Time to Time order that, for a Period not exceeding *Three Months* from the Date of the Order, Post Letters addressed to the Bankrupt shall be re-addressed, sent, or delivered to the Trustee, and the same shall be done accordingly.

Management of Estate by Bankrupt. 1849, s. 150.

214. The Trustee may, with the Approbation of the Creditors, appoint the Bankrupt himself to superintend the Management of the

the Estate, or to carry on the Trade for the Benefit of the Creditors, and in any other respect to aid in administering the Estate in such Manner and on such Terms as the Creditors direct.

Compromise, Arbitration, &c.
1849, s. 153.
1866, § 249.

215. The Trustee, with the Consent of the Creditors, may give time for Payment of any Debt due to the Bankrupt, and may accept Payment of or for any such Debt by Instalments, Composition, or otherwise, and may compromise any Action or Suit, and may submit any Question to Arbitration.

Actions and Suits by Trustee.
1849, s. 153.
1866, § 249.

216. The Trustee, with the Consent of the Creditors, may commence and prosecute or defend any Action or Suit which the Bankrupt might have commenced and prosecuted or defended, and the Costs of the Trustee in or about such Action or Suit, when taxed, shall be allowed out of the Bankrupt's Estate.

Suits by Trustee and Bankrupt's Partners.
1849, s. 152.
1866, § 250.

217. Where a Member of a Partnership is adjudged Bankrupt, the Court may authorize the Trustee, with Consent of the Creditors, to commence and prosecute any Action or Suit in the Names of the Trustee and of the Bankrupt's Partner; and any Release by such Partner of the Debt or Demand to which the Action or Suit relates shall be void; but Notice of the Application for Authority to commence the Action or Suit shall be given to such Partner, and he may show cause against it, and on his Application the Court may, if it thinks fit, direct that he shall receive his proper Share of the Proceeds of the Action or Suit, and if he does not claim any Benefit therefrom he shall be indemnified against Costs in respect thereof as the Court directs.

Non-abatement of Actions, &c. by Change in Trustee.
1849, s. 157.
1866, § 252.

218. Where a Trustee dies or is removed any Action or Suit shall not be thereby abated or made defective, but the Court in which the same is pending may, on a Suggestion or Allegation thereof and of the Appointment of a new Trustee, allow the Name of the new Trustee to be substituted for that of the former Trustee, and the Action or Suit may be continued as if the new Trustee had originally been Party thereto instead of the former Trustee.

Payment of Money into Court.
1849, s. 158.
1866, § 253.

219. In any Action or Suit brought by the Trustee for Money due to the Bankrupt's Estate, the Defendant may, after Notice to the Trustee, pay the same or any Part thereof into the Court in which the Action or Suit is brought, and shall be discharged thereby from the Money paid in; and if the Time allowed to the Bankrupt for applying to annul the Adjudication has not then expired all Proceedings in the Action or Suit with respect to that Money shall thereupon be stayed until the Expiration of that Time, and if the Bankrupt

Bankrupt duly applies to annul the Adjudication and duly prosecutes his Application, the Money shall, as between the Trustee and the Person adjudged Bankrupt, abide the Event of the Application, and be paid out of Court accordingly; but if the Bankrupt does not duly make or duly prosecute such Application the Money shall be paid out of Court to the Trustee forthwith.

Indemnity for Payments in Actions, &c.
1849, s. 155.
1866, § 251.

220. Where the Trustee recovers by Action or Suit any Real or Personal Property from any Person, and the Adjudication is afterwards annulled, every such Person is hereby discharged from all Demand in respect of such Property or Money by the Person adjudged Bankrupt or any Person claiming under him.

Indemnity for Payments without Action, &c.
1849, s. 155.
1866, § 251.

221. Where any Person, without Action or Suit, in good Faith delivers up any Real or Personal Property to the Trustee, or pays any Money claimed by him, and the Adjudication is afterwards annulled, every such Person is hereby discharged from all Demand in respect of such Property or Money by the Person adjudged Bankrupt or any Person claiming under him, provided the Person making such Delivery or Payment had not at the Time of making the same Notice of any Proceeding taken for the Purpose of annulling the Adjudication.

Life Estates in Remainder, &c.
1861, s. 115.
1866, § 220.

222. Where a Non-trader adjudged Bankrupt is entitled under a Settlement or Will to a Life Estate, in remainder expectant on the Death of a previous Tenant for Life, with any Remainder over to the Bankrupt's Issue, or the Heirs of his Body, or any of them, as Purchasers, the Bankrupt's Life Estate shall not be sold or disposed of before it falls into Possession, without an express Direction of the Court.

Bankrupt to join in Conveyances.
1849, s. 148.

223. The Court, on the Application of the Trustee, or of a Purchaser of Part of the Bankrupt's Estate, may, if it thinks fit, order the Bankrupt to join in any Conveyance; and if the Bankrupt fails to execute such Conveyance within the Time directed by the Order, he, and all Persons claiming under him, shall be stopped from objecting to the Validity of the Conveyance, and all Right or Title which the Bankrupt had in or to the Property comprised therein shall be as effectually barred by the Order as if the Conveyance had been executed by him.

Restriction on Impeachment of Title.
1849, s. 131.
1866, § 223.

224. The Title to any Real or Personal Property sold under the Bankruptcy shall not be impeached by the Bankrupt, or any Person claiming under him, by reason only of any Defect in the Petition for Adjudication, or in the Adjudication, or in any Proceeding thereunder,

under, unless the Bankrupt, within the Time allowed by this Act, has commenced Proceedings to annul the Adjudication and has duly prosecuted the same.

Power to mortgage or pledge Bankrupt's Property. 1861, s. 133. 1866, § 232.

225. If the Creditors, at a Special Meeting comprising *Three Fourths* in Value of the Creditors who have proved, resolve that the Bankrupt's Debts can be discharged by means of Money raised by Mortgage or Pledge of his Property, or Part thereof, the Trustee, with the Approval of the Court, may execute such Mortgage or Pledge, with or without Powers of Sale and other Powers, and in such Manner as the Court directs, and the Court may order the Execution of such Mortgage or Pledge by any other necessary Parties, and give all necessary Directions for the Purpose of carrying into effect the Resolution of the Creditors.

Power to sell Book Debts, Goodwill, &c. 1861, s. 137. 1866, § 232.

226. At any Time after the Expiration of *Twelve Months* from Adjudication, or sooner with the Approval of the Court, the Trustee may sell by Auction or Tender or, with the Approval of the Court, by private Contract, all or any of the Book Debts due or growing due to the Bankrupt, and the Books relating thereto and the Goodwill of his Trade or Business, and assign the same to the Purchaser, and such Purchaser may, by virtue of the Assignment, sue for and recover in his own Name the Debts assigned to him.

Disposition of Crop, Manure, &c. 1849, s. 144.

227. Where the Bankrupt is engaged or employed in Husbandry on Land let to Farm, the Trustee, or any Purchaser from him, shall not take, use, or dispose of any Hay, Straw, Grass, Turnips, Roots, or other Produce of the Land, or any Manure, Compost, Ashes, Sea-weed, or other Dressing intended for the Land, and being thereon, in any other Manner or for any other Purpose than the Bankrupt ought to have taken, used, or disposed of the same if he had not been adjudged bankrupt.

Sequestration of Ecclesiastical Benefice. 1859, § 122. 1861, s. 134. 1866, § 227.

228. Where the Bankrupt is a beneficed Clergyman, the Trustee may apply for a Sequestration of the Profits of the Benefice, and the Order confirming the Choice of the Trustee shall be sufficient Authority for the granting of Sequestration without any Writ or other Proceeding, and the same shall accordingly be issued as on a Writ of Levari facias founded on a Judgment against the Bankrupt; but the Sequestrator shall allow out of the Profits of the Benefice to the Bankrupt, while he performs the Duties of the Parish or Place, such an annual Sum, payable quarterly, as the Bishop of the Diocese in which the Benefice is situate directs; and the Bishop may appoint to the Bankrupt such or the like Stipend as he might by Law have appointed to a Curate duly licensed

licensed to serve the Benefice in case the Bankrupt had been non-resident.

Pay, &c. of Officers, &c. 1859, § 123. 1861, s. 134. 1866, § 226.

229. Where the Bankrupt is or has been an Officer of the Army or Navy, or an Officer or Clerk or otherwise employed or engaged in the Service of the Crown, in the Customs or Inland Revenue, or any Civil Office or other Department whatever, or has been in the Naval or Military Service of the East India Company, or an Officer or Clerk or otherwise employed or engaged in the Service of the Directors of that Company, or is in the Enjoyment of any Pension whatever under any Department of Her Majesty's Government, or from the said Directors, the Trustee may receive so much of the Bankrupt's Pay, Half Pay, Salary, Emolument, or Pension as the Court, with the Consent in Writing of the Secretary of State, Lords Commissioners of the Admiralty, Commissioners of Customs or Inland Revenue, or Chief Officer of the Department under which the Pay, Half Pay, Salary, Emolument, or Pension is enjoyed directs, and the same shall be paid to the Trustee accordingly by the proper Officer until further Order of the Court.

Transfer of Estates, &c. to Provisional Trustee in London.

230. All Real and Personal Property at the passing of this Act vested in, held or recoverable by, any Official Assignee of the Court of Bankruptcy for the London District as such, and all Rights and Interests therein, and all Powers and Duties relating thereto, vested in, exerciseable by, or imposed on any such Official Assignee as such, shall, by an Order of the Lord Chancellor made at any Time after the passing of this Act, be transferred to, vested in, and imposed on the Provisional Trustee of the Court of Bankruptcy in London.

Provision for subsequent Transfers on Discharge of Creditor's Assignee.

231. In Cases pending at the Commencement of this Act, where from Time to Time, if this Act had not been passed, an Official Assignee of the Court of Bankruptcy for the London District would, in consequence of a Creditor's Assignee having obtained an Order of Discharge, have represented the Estate of a Bankrupt as the sole Assignee thereof, the Provisional Trustee of the Court of Bankruptcy in London shall be the sole Trustee of the Estate, and shall have and exercise in relation thereto all the Rights, Duties, Powers, and Authorities that would have been vested in and exerciseable by an Official Assignee of that Court if this Act had not been passed; and with respect to Cases pending at the Commencement of this Act, the Provisional Trustee or Provisional Trustees of a Country District Court of Bankruptcy as such shall be in the same Position in all respects as an Official Assignee of that

Court as such was immediately before the Commencement of this Act; and with respect to Cases so pending, the Registrar of a County Court in his Capacity of Provisional Trustee of that Court shall be in the same position as immediately before the Commencement of this Act he was in his Capacity of Official Assignee.

Protection of Purchasers. 1849, s. 134. 1866, § 240.

232. Any Purchase from or other Dealing with the Bankrupt in good Faith and for valuable Consideration, where the Person purchasing from or dealing with the Bankrupt had at the Time of such Purchase or Dealing Notice of an Act of Bankruptcy committed by the Bankrupt, shall not be impeached by reason thereof unless a Petition for Adjudication is filed within *Three Months* after such Act of Bankruptcy.

Protection of Payments, &c. without Notice of Act of Bankruptcy. 1849, s. 133. 1866, § 239.

233. The following Payments, Conveyances, Contracts, Dealings, Transactions, Executions, and Attachments shall be valid notwithstanding any prior Act of Bankruptcy committed by the Bankrupt; that is to say,—

Every Payment by or on behalf of the Bankrupt to any of his Creditors, and every Payment to him, and every Conveyance for valuable Consideration by him, and every Contract, Dealing, and Transaction by and with him, and every Execution and Attachment against his Lands executed by Seizure, and every Execution and Attachment against his Goods and Chattels executed and levied by Seizure and Sale, provided—

(1). That the Payment, Conveyance, Contract, Dealing, Transaction, Execution, or Attachment was bonâ fide made, executed, or entered into, executed by Seizure, or executed and levied by Seizure and Sale (as the Case may be), before the filing of the Petition for Adjudication; and,

(2). That the Person to, by, or with whom every such Payment, Conveyance, Contract, Dealing, or Transaction was made, executed, or entered into, or at whose Suit, or on whose Account every such Execution or Attachment was issued, had not at the Time of such Payment, Conveyance, Contract, Dealing, or Transaction, or at the Time of the executing or levying of such Execution or Attachment, or at the Time of the making of any Sale thereunder, Notice of any prior Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him;

But nothing herein shall give Validity to any Payment, Delivery, Transfer, Conveyance, or Mortgage constituting a fraudulent Preference, or to any Execution founded on a Judgment on a Warrant of Attorney or Cognovit Actionem, or Judge's Order obtained by Consent, constituting a fraudulent Preference.

234. Where

234. Where any Person, Corporation, or Company having in his or their Possession or Custody any Money or Personal Property which at the Time of the Deposit thereof in his or their Possession or Custody belonged to the Bankrupt, pays or delivers the same to the Bankrupt or to his Order, such Payment or Delivery (even if made after Adjudication) shall not be impeached as against the Person, Corporation, or Company making the same, provided—

1. That the Payment or Delivery is made before Notice of Adjudication is gazetted:
2. That the Person, Corporation, or Company making such Payment or Delivery had not at the Time of making the same Notice of an Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him.

Protection of Payments, &c. by Depositees of Bankrupt's Property. 1 Jac. 1. c. 15. s. 14. 56 Geo. 3. c. 137. 10 Geo. 4. c. 16. s. 84.

235. The following Instruments given or entered into by the Bankrupt, whether in contemplation of Bankruptcy or not, shall be void if at the Time of the Bankrupt giving or entering into the same he was unable to meet his Engagements with his Creditors; namely,—

1. Every Warrant of Attorney to confess Judgment in a Personal Action given within *Two Months* before the filing of the Petition for Adjudication, and being (wholly or in part) for or in respect of an antecedent Debt or Money Demand:
2. Every Cognovit Actionem or Consent to a Judge's Order for Judgment given, or Agreement to allow Judgment to pass by Default, on an Undertaking by the Plaintiff not to issue or to postpone issuing Execution thereon, entered into (after the Commencement of this Act) within *Two Months* before the filing of the Petition for Adjudication, in any Action commenced by Collusion with the Bankrupt, and not adversely, or purporting to have been given or entered into in an Action, but having been in fact given or entered into before the Commencement of any Action.

Certain Warrants of Attorney, &c. within Two Months of Petition void. 1849, s. 135. 1866, § 246.

Part XIII.—Proof.

236. Every Person with whom the Bankrupt has before the filing of the Petition for Adjudication contracted a Debt, and every Person to whom the Bankrupt has before that Time become liable in respect of a Demand, may, notwithstanding any prior Act of Bankruptcy, prove the Amount of such Debt or Demand, provided he had not at the Time when the Debt was contracted or the Liability was incurred Notice of any Act of Bankruptcy committed by the Bankrupt and then available for Adjudication of Bankruptcy against him.

Proof, notwithstanding prior Act of Bankruptcy. 1849, s. 165. 1866, § 156.

 237. Where

Set off.
1849, s. 172.
1866, § 159.

237. Where mutual Credit has been given by the Bankrupt and any other Person,—or where there are mutual Debts between the Bankrupt and any other Person,—or where any Person entitled to prove in respect of any Debt or Demand is indebted or liable to the Bankrupt in respect of any Debt or Demand,—the Account between the Bankrupt and such Person shall be stated, and one Debt or Demand may be set against another, notwithstanding any Act of Bankruptcy committed by the Bankrupt before the Credit given to or Debt contracted or Liability incurred by him; and no more than what appears due on either Side on the Balance of Account shall be claimed or paid on either Side; provided such Person had not at the Time of the Credit given to or Debt contracted or Liability incurred by the Bankrupt Notice of any Act of Bankruptcy committed by him and then available for Adjudication against him.

Interest.
1849, s. 180.
1866, § 160.

238. Where a Debt or Sum certain, on which Interest is not reserved or agreed for, is due at the filing of the Petition for Adjudication, and is proveable, the Creditor may prove also for Interest at *Four* per Centum per Annum, to the Filing of the Petition from the Time when the Debt or Sum was payable, if it was payable by virtue of a written Instrument at a certain Time, or if not, then from the Time when Demand of Payment was made in Writing, with a Notice in Writing that Interest would be claimed from that Demand until Payment.

Discount on Dividends for Debts not payable presently.
1849. s. 172.
1866, § 161.

239. Any Creditor of the Bankrupt in respect of a Debt not payable at the Time of Adjudication (whether on a negotiable Instrument or not) may prove the Debt as if it was payable presently, and receive Dividends, allowing, out of the Dividends, Discount at *Five* per Centum per Annum from the Declaration of each Dividend until the Time when the Debt is payable.

Debt payable by Instalments.
1861, s. 151.
1866, § 163.

240. Where the Bankrupt has before the filing of the Petition for Adjudication contracted a Debt payable by Instalments, the Creditor may prove for the aggregate Amount of the Instalments unpaid.

Double Proof.
1861, s. 152.
1866, § 166.

241. Where the Bankrupt is at Adjudication liable as Member of Two or more Partnerships carrying on distinct Trades and having distinct Estates, or as a sole Trader and also as Member of a Partnership, on a Bill of Exchange, Promissory Note, or other negotiable Instrument, or on any Contract, the Creditor to whom the Bankrupt is so liable may prove against each of the Estates on which the Liability attaches, notwithstanding that at the Time when the

the Liability accrued he had Notice of the Connexion between the Partnerships, or between the sole Trader and the Partnership.

Proof for unliquidated Damages. 1861, s. 153. 1866, § 170.

242. Where the Bankrupt is at Adjudication liable under a Contract or Promise to a Demand in the Nature of unliquidated Damages, then, notwithstanding that such Contract or Promise has not been broken before the Adjudication, the Court may, by Consent of all necessary Parties, assess the Damages, or, if all necessary Parties do not consent, may, on Application of the Trustee, or of the Person to whom the Bankrupt is liable, direct the Damages to be assessed by a Jury, either before the Court itself, or in a Court of Law, and may give all necessary Directions for that Purpose; and in any Case the Damages assessed may be proved under the Bankruptcy.

Proof for Money, &c. enforceable by Process of Contempt. 1859, § 108, 1861, s. 149.

243. A Person entitled to enforce against the Bankrupt Payment of any Money, Costs, or Expenses by Process of Contempt issuing out of any Court may prove for the Amount payable under the Process, subject to such ascertaining of the Amount as may be properly had, by Taxation or otherwise.

Distress not available for more than One Year's Rent. 1849, s. 129. 1866, § 242.

244. Distress for Rent levied on the Property of the Bankrupt after the Act of Bankruptcy on which Adjudication is made, whether before or after the filing of the Petition for Adjudication, shall not be available for more than *One Year's* Rent accrued due before the Day of such filing; but a Person entitled to Rent may prove for any Rent due for which Distress is not so available.

Proof for Rent, &c. 1861, s. 150. 1866, § 164.

245. Where the Bankrupt is liable to pay a Rent, or to make any other Payment, falling due at fixed Periods, and the Adjudication happens at a Time other than One of those Periods, the Person entitled to the Rent or Payment may prove for a proportionate Part thereof up to the Day of Adjudication as if it grew due from Day to Day.

Bottomry Respondentia and Insurance. 1849, s. 174. 1866, § 167.

246. The Obligee in a Bottomry or Respondentia Bond, and the Assured in a Policy of Insurance, made on good or valuable Consideration, may claim under the Bankruptcy of the Obligor or Insurer, and after the Loss or Contingency has happened may prove and receive Dividends, as if the Loss or Contingency had happened before the filing of the Petition for Adjudication.

Proof by Agents effecting Policies on Ships, &c.

247. Where a Policy of Insurance on a Ship or on Goods has been effected with the Bankrupt (as a Subscriber or Underwriter) the Person effecting the Policy may prove in respect thereof,

1849, s. 174. 1866, § 167. although he was not beneficially interested in the Ship or Goods, provided the Person so interested is not within the United Kingdom, the Channel Islands, or the Isle of Man.

Premiums on Policies and other periodical Payments. 1861, s. 154. 1866, § 168.

248. If the Bankrupt is at Adjudication liable on a Covenant, Contract, or Promise to pay Premiums on a Policy of Insurance, or to make any other periodical Payment, or to repay to any Person, or indemnify any Person against any such Payment, the Covenantee, or other Person entitled to the Benefit of the Covenant, Contract, or Promise, may prove for the Value of the Bankrupt's Liability thereunder (such Value to be ascertained as the Court directs).

Debt payable on Contingency. 1849, s. 177. 1866, § 169.

249. Where the Bankrupt has before the filing of the Petition for Adjudication contracted a Debt payable on a Contingency which has not happened before the filing of the Petition, the Creditor may, before the Contingency happens, prove for the Value of the Debt (estimated as the Court directs) and receive Dividends, or may, after the Contingency happens, prove for the Debt and receive Dividends not disturbing former Dividends, provided he had not at the Time when the Debt was contracted Notice of an Act of Bankruptcy committed by the Bankrupt, and then available for Adjudication against him.

Contingent Liability. 1849, s. 178. 1866, § 169.

250. Where the Bankrupt has before the filing of the Petition for Adjudication contracted a Liability to pay Money on a Contingency which has not happened before the filing of the Petition and the Demand in respect thereof is not ascertained before the filing of the Petition, then, if the Liability is not proveable under any other Section of this Act, the Person with whom the Liability has been contracted may claim for such Sum as the Court thinks fit, and after the Contingency has happened and the Demand has been ascertained may prove in respect thereof, and receive Dividends, as nearly as may be as if the Contingency had happened and the Demand had been ascertained before the filing of the Petition, not disturbing former Dividends, provided—

(1.) That the Claimant had not at the Time when the Liability was contracted, Notice of any Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him :

(2.) That in case the Claim is not wholly or in part converted into a Proof within *Six* Months from the filing of the Petition it may at any Time thereafter be expunged wholly or in part if the Court thinks fit.

Annuity Creditor. 1849, s. 175. 1866, § 171.

251. An Annuity Creditor of the Bankrupt (by whatever Assurance the Annuity is secured), whether there were or not any Arrears

Arrears due at the filing of the Petition for Adjudication, may prove for the Value of the Annuity (estimated as the Court directs), regard being had to its original Price and to the Diminution in its Value caused by the Lapse of Time to the filing of the Petition.

Sureties and Persons liable for Debts of Bankrupt. 1849, s. 173. 1866, § 173.

252. Where any Person is at the Time of the filing of the Petition for Adjudication, Surety or liable for any Debt or Liability of the Bankrupt, and pays or satisfies the Debt or Liability, or any Part of it in discharge of the whole (although he does so after the filing of the Petition), the following Provisions shall have Effect:

(1.) If the Creditor has proved, the Surety or Person liable may stand in his Place in respect of the Proof:

(2.) If the Creditor has not proved, the Surety or Person liable may prove for the Payment made by him as a Debt, not disturbing former Dividends, and may receive Dividends;

although such Person became Surety or liable after an Act of Bankruptcy committed by the Bankrupt, provided he had not at the Time when he became Surety or liable Notice of any Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him.

Sureties for Annuities. 1849, s. 176. 1866, § 172.

253. It shall not be lawful for any Person entitled to an Annuity granted by the Bankrupt to sue any Person who is Surety for Payment thereof, until the Annuitant has proved under the Bankruptcy for the Value of the Annuity and for the Arrears thereof; and if the Surety after such Proof pays the Amount proved, he shall be thereby discharged from all Claims in respect of the Annuity; and if the Surety does not (before any Payment of the Annuity subsequent to the filing of the Petition for Adjudication becomes due) pay the Amount proved, he may be sued for the accruing Payments of the Annuity, until the Annuitant (either by Dividends under the Bankruptcy or by Payments from the Surety) has received the Amount proved, with Interest at *Four* per Centum per Annum, from the Time of Notice to the Surety of the Proof and of the Amount thereof; and after such Receipt by the Annuitant the Surety shall stand in his Place in respect of such Proof for the Amount received by the Annuitant from the Surety; and the Bankrupt's Order of Discharge shall discharge him from all Claims of the Annuitant, or of the Surety in respect of the Annuity.

Bankrupt Member of a Company. 25 & 26 Vict. c. 89.

254. Where the Bankrupt is at the Time of Adjudication a Member of a Company registered under The Companies Act, 1862, and not in the Course of being wound-up under that Act, he shall

shall be by virtue of the Adjudication absolutely discharged from all Liability in respect of such Membership, and shall be deemed to have ceased to be a Member as from the Date of Adjudication; and the Company may prove under the Bankruptcy for the Amount of Calls made before the Adjudication in respect of the Shares held by the Bankrupt, and not paid, and may claim for the Value (estimated as the Court directs) of the Liability to Calls to be made within One Year after the Adjudication in respect of such Shares.

Proof for Costs.
1849, s. 181.
1866, § 162.

255. Every Person who under a Verdict, Judgment, Decree, Order, or Rule in or of a Court of Law or of Equity, or other Court, or in Lunacy, obtained before the Adjudication, would have been entitled to recover Costs from the Bankrupt if he had not been adjudged Bankrupt, may prove for the Amount of such Costs when taxed, although the Taxation is not had before Adjudication.

Creditor proving to relinquish Action, &c.
1849, s. 182.
1866, § 158.

256. A Creditor who has brought an Action or instituted a Suit against a Bankrupt in respect of a Debt or Demand proveable under the Bankruptcy shall not prove or claim thereunder in respect of that Debt or Demand without first relinquishing the Action or Suit: Provided always, as follows:

(1.) Such Creditor shall not be liable by reason thereof to pay the Costs of the Action or Suit:

(2.) Where the Action or Suit is against the Bankrupt jointly with any other Person, the Relinquishment thereof as against the Bankrupt shall not affect the Action or Suit as against such other Person:

(3.) If the Petition is dismissed or the Adjudication is annulled, the Creditor may proceed in the Action or Suit as if he had not proved or claimed.

Proof to be deemed Election.
1849, s. 182.
1866, § 158.

257. The proving or claiming of a Debt or Demand under the Bankruptcy shall be deemed an Election by the Creditor to take the Benefit of the Adjudication with respect to that Debt or Demand; and the Court may, if it thinks fit, accordingly restrain any Action, Suit, or Proceeding by that Creditor in contravention of this Section.

Procedure.

Mode of Proof of Debts.
1861, s. 144.

258. Every Creditor of the Bankrupt may after Adjudication prove his Debt, by delivering or sending through the General Post to the Trustee a Statement of his Debt and of the Account, if any, between him and the Bankrupt, with a Declaration signed by the Creditor appended thereto, that such Statement is a true and

and complete Statement of Account between him and the Bankrupt, and that the Debt thereby appearing to be due from the Bankrupt's Estate to the Creditor is justly due.

Proof by Companies, &c. 1861, s. 144.

259. Companies and other Bodies incorporated or authorized to sue may prove by an Agent, who shall in his Declaration declare that he is such Agent, and that he is authorized to make such Proof.

False Declaration Perjury. 1861, s. 145. 1866, § 317.

260. If any Person wilfully and corruptly makes any Declaration for Proof of Debt under this Act knowing the same or the Statement of Account to which it is appended to be untrue in any material Particular, he shall be deemed guilty of Perjury.

Proof in Court or in Chambers, &c. 1861, s. 146.

261. Every Creditor of the Bankrupt may also after Adjudication prove his Debt by Deposition in Court or in Chambers, or before a Registrar at any Meeting of Creditors elsewhere than in Court, or by Affidavit; and such Proof may be on his own Oath, or on that of any Clerk or other Person in his Employment, who shall in his Deposition or Affidavit set forth that he is authorized by his Principal to make the Deposition or Affidavit, and that it is within his own Knowledge that the Debt was incurred, and for the Consideration stated, and that to the best of his Knowledge and Belief the Debt still remains unpaid and unsatisfied.

Examination on Oath of alleged Creditor, &c. 1861, s. 148.

262. The Court may, on the Application of the Trustee, or of any Creditor, or of the Bankrupt, or without any Application, examine on Oath or otherwise any Person tendering or who has made a Proof, or who has made an Affidavit or Statement, and may summon any such Person or any Person capable of giving Evidence concerning such Proof or the Debt sought to be proved.

Expunging or Reduction of Proof. 1861, s. 155.

263. The Court may at any Time expunge or reduce a Proof on such Application and such Evidence as it thinks sufficient; and for that Purpose may summon and examine on Oath or otherwise the Person who has proved, and every Person capable of giving Evidence concerning the alleged Debt, and may make such Order as to the Costs of any Application as seems just.

Part XIV.—Dividends; Preferential Payments; Allowances; Surplus.

Times, &c. for Dividends.

264. The Trustee shall from Time to Time declare and make Dividends of the Bankrupt's Estate according to such Directions as

as the Creditors give at the First Meeting or afterwards, and in the Absence of any such Direction, then according to General Orders.

Provision for Creditors residing at a Distance and pending Claims.
1861, s. 176.

265. In the Calculation of a Dividend it shall be obligatory on the Trustee to make Provision for Debts appearing from the Bankrupt's Statement of Accounts, or otherwise, to be due to Persons resident in Places so distant from the Court that in the ordinary Course of Communication they have not had sufficient Time to tender their Proofs, or to establish them if disputed, and also for Debts, the Subject of Claims disputed, and not yet determined by the Court.

Joint and separate Dividends.
1861, s. 177.

266. Where joint and separate Estates are being administered, and the Court does not otherwise direct, Dividends of the joint and separate Estates shall be declared together, and Gazette Notices respecting such Dividends shall be given in the same Advertisement; and the Expenses of and incident to the Meetings respecting such Dividends shall be fairly apportioned by the Trustee between the joint and separate Estates, regard being had to the Work done for and the Benefit received by each Estate, and One Charge only shall be allowed to the Solicitor to the Trustee in respect of any such Meeting.

Order for Dividend.

267. If on any Audit of the Trustee's Accounts there appears to be net Produce of the Bankrupt's Estate in hand sufficient to pay to the Creditors who have proved a Dividend of *One Shilling* in the Pound or more, and there is no existing Direction of the Creditors to the contrary, the Court may, if it thinks fit, order a Dividend to be made, of such Amount as the Court directs.

Dividends of Execution Creditors.
1849, s. 184.
1866, § 174.

268. A Creditor having levied Execution on or having by virtue of any Custom or otherwise made an Attachment of the Personal Property of the Bankrupt or any Part thereof, shall not receive thereby more than a rateable Part of the Debt, unless the Property seized or attached is actually sold before the filing of the Petition for Adjudication.

On Bankruptcy of Partner Dividends of joint Creditors.
1849, s. 140.
1866, § 178.

269. Where the Bankrupt is a Member of a Partnership, a Creditor to whom he is indebted jointly with the other Partners, or any of them, shall not receive any Dividend out of the separate Estate of the Bankrupt until the separate Creditors of the Bankrupt have been paid in full.

No Action for Dividend.
1849, s. 190.
1866, § 273.

270. An Action for a Dividend shall not lie against the Trustee, but if the Trustee refuses to pay any Dividend the Court may, if it thinks

thinks fit, order Payment thereof with Interest for the Time that it is withheld, and with the Costs of the Application.

Rates and Taxes. 1849, s. 166. 1861, s. 150. 1866, § 257.

271. The Trustee shall pay, out of the Bankrupt's Estate, all Parochial Rates due from him at Adjudication and having become due within *Twelve Months* next before Adjudication, and all Assessed Taxes, Land Tax, and Property or Income Tax assessed on him at Adjudication, up to the *Fifth* Day of *April* next after Adjudication (not exceeding in the whole *One Year's* Assessment), and the Bankrupt shall not be liable to be assessed to Taxes after that *Fifth* Day of *April* in respect of any Article kept and used for the Purposes of Trade at or before Adjudication, and seized, surrendered, and sold under the Bankruptcy, and not kept or used by the Bankrupt after that *Fifth* Day of *April*.

Wages and Salaries of Servants and Clerks. 1849, s. 168. 1866, § 260.

272. Where at the Time of the filing of the Petition for Adjudication the Bankrupt was indebted to any Servant or Clerk for Wages or Salary, the Trustee, on Proof thereof, shall pay so much as is due, not exceeding *Three Months* Wages or Salary and not exceeding *Thirty Pounds*, to such Servant or Clerk out of the Bankrupt's Estate, and such Servant or Clerk may prove for any Sum exceeding that Amount.

Wages of Labourers and Workmen. 1849, s. 169. 1866, § 260.

273. Where at the Time of the filing of the Petition for Adjudication the Bankrupt was indebted to any Labourer or Workman of the Bankrupt in respect of his Wages or Labour, the Trustee, on Proof thereof, shall pay so much as is due, not exceeding *Forty Shillings*, to such Labourer or Workman out of the Bankrupt's Estate, and such Labourer or Workman may prove for any Sum exceeding that Amount.

Indenture of Apprenticeship. 1849, s. 170. 1866, § 261.

274. Where at the Time of the filing of the Petition for Adjudication any Person is apprenticed to the Bankrupt, the Adjudication shall be a complete Discharge of the Indenture of Apprenticeship, and if any Money has been paid by or on behalf of such Apprentice to the Bankrupt as an Apprentice Fee, the Court, on Proof thereof, may, if it thinks fit, order such Sum as the Court thinks reasonable to be paid out of the Bankrupt's Estate to or for the Use of the Apprentice, regard being had to the Amount paid by him or on his Behalf and to the Time during which he resided or served with the Bankrupt under the Indenture before the filing of the Petition for Adjudication.

Allowance to Bankrupt for Maintenance.

275. The Court may, if it thinks fit, from Time to Time make such Allowance to the Bankrupt out of his Estate until he has passed

1849, s. 194. 1866, § 276.

passed his last Examination as the Court considers necessary for the Support of the Bankrupt and his Family, but such Allowance shall not be made by the Court for any Period after the Adjournment of the last Examination sine die.

Allowance in proportion to Dividend.

1849, s. 195. 1859, § 86. 1866, § 277.

276. Every Bankrupt whose Order of Discharge has taken Effect shall be allowed and paid the following Allowance:

If the Net Produce of his Estate in Hand will (with any prior Dividend) pay the Creditors who have proved *Ten Shillings* in the Pound, he shall be allowed and paid out of such Produce *Five* per Centum, not exceeding *Four hundred* Pounds;

If such Produce will (with any prior Dividend) pay such Creditors *Twelve Shillings and Sixpence* in the Pound, he shall be allowed and paid as aforesaid *Seven and a Half* per Centum, not exceeding *Five hundred Pounds;*

If such Produce will (with any prior Dividend) pay such Creditors *Fifteen Shillings* in the Pound or more, he shall be allowed and paid *Ten* per Centum, not exceeding *Six hundred Pounds;*

And every such Allowance shall be payable to the Bankrupt forthwith after his Order of Discharge takes effect, in case the Dividends paid to the Creditors who up to that Time have proved are of the requisite Amount in this Section mentioned, and if, when the Order of Discharge takes effect, the Dividends paid do not amount to *Ten Shillings* in the Pound, the Court may allow the Bankrupt so much as the Court thinks fit, not exceeding *Three* per Centum and not exceeding *Three hundred Pounds.*

Allowance in case of Partnership.

1849, s. 196. 1866, § 278.

277. In case of a joint Petition for Adjudication, under which any Partner has obtained his Order of Discharge, if a sufficient Dividend has been paid in the Aggregate on the joint Estate and on the separate Estate of that Partner, he shall be entitled to his Allowance, although a sufficient Dividend has not been paid in the Case of any other Partner.

Payment of Surplus to Bankrupt subject to Interest on Debts.

1849, s. 197. 1866, § 275.

278. If the Produce of the Bankrupt's Estate pays *Twenty Shillings* in the Pound on the Debts proved and the Costs, Charges, and Expenses of the Bankruptcy, then the Creditors who have proved shall receive Interest on their Debts at the Rate and in the Order following:

1. All Creditors whose Debts by Law carry Interest shall first receive Interest on those Debts as from the filing of the Petition for Adjudication at the Rate reserved or by Law payable or proveable thereon:

2. All other Creditors who have proved shall then receive Interest on their Debts as from the filing of the Petition at *Four* per Centum per Annum:

And

And if after such Payment of Interest any Surplus of the Bankrupt's Estate remains, the Court shall order that the same revest in or be paid to the Bankrupt, his Heirs, Executors, or Administrators (according to the Nature thereof or of the Property from the Disposition whereof it arises), and the same shall revest or be paid accordingly as if there had not been any Adjudication.

PART XV.—CONTROL OF TRUSTEE; AUDIT; RELEASE.

Trustee to be subject to Orders of Court. 1849, s. 151.

279. The Trustee shall be subject to the Orders of the Court in his Conduct as Trustee, and the Court may at all Times summon the Trustee, and require him to produce, or to pay and deliver over, in accordance with the Provisions of this Act, all Money, Books, and Documents in his Possession, Custody, or Control as Trustee.

Control of Court over Acts of Trustee, &c.

280. Any Act or Proceeding of the Trustee, or of any Inspector, or of the Creditors, shall be subject to be annulled or varied by the Court on the Application of any Creditor, or of the Trustee, or of an Inspector, and on good Cause shown.

Audit and Taxation of Trustee's Accounts.

281. The Accounts of the Trustee shall be audited by the Registrar *Four* Times at least in every *Twelve Months*, at such Times and in such Manner as General Orders direct; and any Remuneration awarded to the Trustee shall not be allowed as against the Bankrupt's Estate unless and until the Trustee's Account in respect of such Remuneration has been taxed by the Taxing Master or Registrar (as the Case requires), and no such Account shall be allowed on Taxation unless and until the Trustee's Accounts have been duly audited up to the Time of Taxation.

Resolution of Release. 1861, s. 180.

282. The Creditors may, if and when they think fit, by Resolution at a Special Meeting, give to the Trustee chosen by the Creditors a Release in respect of the Bankruptcy; and the Trustee may file the Resolution in the Court; and the Resolution, when filed, shall operate to discharge the Trustee from all Claims and Demands of the Creditors, and of any Person who might have proved under the Bankruptcy, subject to the Conditions (if any) expressed in the Resolution.

On Release, unclaimed Dividends, &c. to be

283. The Trustee shall, before filing the Resolution of Release, give to the Provisional Trustee a List, signed by him, of unclaimed Dividends on the Estate, and of Debts remaining due to the Estate, and

paid into Bank. 1861, s. 181.

and shall lodge Money and negotiable Instruments then in his Hands belonging to the Bankrupt's Estate in the Bank of England to the Account of the Accountant in Bankruptcy, and the same shall be carried to the Credit of the Estate.

Lodgment in Bank of England and Receipt, &c. 1861, s. 183.

284. The Accountant in Bankruptcy shall, on the Application of the Trustee, give to him a Certificate stating the Amount and Description of any Money or negotiable Instrument which he is at any time desirous of lodging in the Bank of England under this Act, and the Governor and Company of the Bank of England shall, on Production of such Certificate, receive such Money or negotiable Instrument, and shall give a Receipt for the same, and shall place the same to the Credit of the Accountant in Bankruptcy.

Provisional Trustee to act after Release of Trustee. 1861, s. 182.

285. After the filing of the Resolution of Release the Provisional Trustee shall, with respect to any Property of the Bankrupt not realized at the Time of the Resolution and Debts then remaining uncollected or unsold, and any after-acquired Property of the Bankrupt, be the sole Trustee of the Bankrupt's Estate.

Protection of Provisional Trustee in case of annulling. 1849, s. 41.

286. The Provisional Trustee shall not be personally liable for any Act done by him, or done in pursuance of any Order or Authority given by him, in the Execution of his Duty as Provisional Trustee, notwithstanding that the Bankruptcy is annulled.

Protection of Provisional Trustee respecting Receipt of Money, &c. 1849, s. 41.

287. The Provisional Trustee shall not be personally liable by reason of his having received any Money or negotiable Instrument under a Bankruptcy in his Character of Provisional Trustee, provided he lodges the same, during the Prosecution of the Bankruptcy, in the Bank of England, to the Credit of the Accountant in Bankruptcy for the particular Estate for which he has received the same, and gives Notice of such Lodgment to any Person claiming the same; and provided he has not, after such Lodgment, dealt with the same otherwise than in the Execution of his Duty as Provisional Trustee, and under Order of the Court; and if any Action is brought against him (solely or otherwise) in respect thereof, the Court in which the Action is brought, or if the Court is One of the Superior Courts of Law at Westminster, then a Judge of any One of those Courts, on his Application, and on Evidence of the Facts, may set aside the Proceedings in the Action as far as he is concerned, with or without Costs as the Court or Judge thinks fit.

PART XVI.—TRANSFER OUT OF BANKRUPTCY. 1861, s. 110.

Resolution for taking Estate out of Bankruptcy.

288. At the First Meeting or at a Special Meeting it may be resolved by the Votes of a Majority in Number representing *Three Fourths* in Value of the Creditors present or represented thereat that any Proposal made by or on behalf of the Bankrupt for taking his Estate out of Bankruptcy, or any Modification thereof, be accepted; or in the Absence of any such Proposal, or in case of any such Proposal being made and rejected, it may be resolved by the Votes of that Majority that the Estate of the Bankrupt be taken out of Bankruptcy; and on any such Resolution being passed the Meeting shall be adjourned for *Fourteen* Days, and no Proceedings in Bankruptcy shall be taken in the meantime.

Notice of Resolution.

289. Notice of the passing of the Resolution shall be gazetted.

Proceedings at adjourned Meeting.

290. At the adjourned Meeting it may be resolved by the Votes of a Majority in Number representing *Three Fourths* in Value of the Creditors present or represented thereat that the Estate of the Bankrupt shall be wound up out of Bankruptcy, or that any other Arrangement for the Payment of his Debts, or of a Composition thereon, be adopted (with or without a Deed), and that the Jurisdiction of the Court over his Estate shall, as from the Date of such Resolution, either wholly cease, or continue only to the Extent and for the Purposes specified in the Resolution.

Effect of Resolution.

291. A Copy of the Resolution passed at the adjourned Meeting shall be filed in the Court, and thereupon the Jurisdiction of the Court over the Estate of the Bankrupt shall cease, or shall continue, in accordance with the Terms of the Resolution, and the Arrangement mentioned in the Resolution shall be carried into effect, but the Bankrupt personally shall remain subject to the Provisions of this Act relative to Examination and Discharge as if the Resolution had not been passed.

Arrangement in Cases of Partnership.

292. Where the Adjudication is against Members of a Partnership the joint Creditors and each Class of separate Creditors of the Partners may make distinct Arrangements under this Part of this Act; and if distinct Arrangements are so made, the Majorities of Creditors required under this Part of this Act shall be distinct Majorities of each such Class, but otherwise the joint and separate Creditors shall have Votes as One Body: Provided that the Delay of any One of such Classes in making, or their Failure to make, an Arrangement under this Part of this Act shall not prevent any other of such Classes from making such an Arrangement.

1861, ss. 185–191. 1866, §§ 291–296.

Part XVII.—Change from Bankruptcy to Arrangement.

Resolution for Arrangement.

293. At the First Meeting of Creditors after Adjudication, or at a Special Meeting of Creditors, the Bankrupt, or any Person on his Behalf, may make a Proposal for the Payment of his Debts, or of a Composition thereon; and at such Meeting it may be resolved by the Votes of a Majority in Number representing *Three Fourths* in Value of the Creditors present or represented thereat that such Proposal or any Modification thereof be accepted.

Confirmation of Resolution by Court.

294. The Trustee shall report such Resolution to the Court within *Four Days* from the Date of its passing; and the Court, on the Application of the Bankrupt or the Trustee, or of any Creditor who has concurred in the Resolution, shall, if satisfied that the Resolution was duly passed, and that its Terms are reasonable, by Order confirm the Resolution and suspend the Proceedings in Bankruptcy for such Period as the Court thinks fit, and may, by the same or any subsequent Order, give such Directions as it thinks fit for the Protection and Management of the Bankrupt's Estate during the Period of Suspension.

Production of Deed to Court and Declaration of complete Execution.

295. At any Time before the Termination of the Period of Suspension the Bankrupt or the Trustee or any Creditor may produce to the Court a Deed of Arrangement for carrying into effect the Proposal, and the Court, if satisfied that the Deed has been executed or in Writing assented to by a Majority in Number representing *Three Fourths* in Value of the Creditors, and if satisfied (after hearing the Bankrupt, and any Creditor desiring to be heard in support of or in opposition to the Deed) that the Deed is not inconsistent with the Resolution, shall make a Declaration of the complete Execution of the Deed, and shall direct the Deed to be filed in the Court, and shall annul the Bankruptcy; and the Deed shall thereupon be as binding in all respects on any Creditor who has not executed or assented to it as if he had executed or assented to it.

Computation of requisite Value.

296. For the Purposes of the Computation of the requisite Value, a Person shall be deemed a Creditor for the Amount of his Debt proveable in Bankruptcy after Deduction of the Value of all Securities for the same held by him on the Debtor's Property; but if the Deed provides for the Payment in full of all Creditors whose respective Debts do not exceed *Ten Pounds*, that Class of Creditors shall be excluded in such Computation.

Jurisdiction of Court to entertain

297. Between the filing of the Deed and the Expiration of the Time allowed for complete Execution, and also after a Declaration of

of complete Execution, the Court shall have exclusive Jurisdiction to enforce in any respect the Execution of the Trusts of the Deed, and to entertain any Application of the arranging Debtor, or of any Trustee or Inspector acting under the Deed, or of any Creditor or Person claiming to be a Creditor of the arranging Debtor, respecting the Custody, Distribution, Inspection, Management, or Winding-up of the arranging Debtor's Property or Affairs,—or respecting any Act or Thing relating thereto, done or happening after the Execution of the Deed by the arranging Debtor,—or respecting the Claim of any Person to be a Creditor,—or respecting the Execution or Performance of any of the Trusts, Powers, Covenants, or Provisions of the Deed,—or respecting the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of an Attorney, Solicitor, Accountant, Auctioneer, Broker, or other Person acting or employed under the Deed,—or respecting any Matter for the Submission whereof to the Court Provision is made by the Deed. Applications under Deed.

On any such Application the Court may proceed and direct and authorize Proceedings with respect to the summoning and Examination of the arranging Debtor and Witnesses and otherwise, as in Bankruptcy, and may make such Order concerning the Subject of the Application and the Costs of it as seems just, which Order shall be enforceable as an Order in Bankruptcy.

298. Except where the Deed expressly provides otherwise, the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, as far as the same are applicable. Decision of Questions as in Bankruptcy.

299. If a Declaration of complete Execution is not made within the Period of Suspension the Proceedings in Bankruptcy shall, immediately on the Expiration of that Period, go on as if there had been no Suspension, and that Period shall not be reckoned in the Calculation of Time for any Purpose under this Act. Failure of complete Execution.

300. If the Bankruptcy is annulled as in this Part of this Act provided, Notice of the Order annulling it shall be gazetted, and the Trustee chosen by the Creditors shall be entitled to his Release as if the Bankruptcy had not been annulled. Notice of annulling.

301. Where the Adjudication is against Members of a Partnership the joint Creditors and each Class of separate Creditors may make distinct Arrangements under this Part of this Act; and if distinct Arrangements are so made the Majorities of Creditors Arrangement in Cases of Partnership.

required under this Part of this Act shall be distinct Majorities of each such Class, but otherwise the joint and separate Creditors shall have Votes as One Body; provided that the Delay of any One of such Classes in making, or their Failure to make, an Arrangement under this Part of this Act shall not prevent any other of such Classes from making such an Arrangement.

1849, ss. 224–229. 1859, §§ 251–278. 1861, ss. 192–200. 1866, §§ 297–305.

Part XVIII.—Arrangement by Deed.

Deed of Arrangement may be filed in Court.

302. A Debtor (not adjudged Bankrupt) who after the Commencement of this Act, in order to an Arrangement with his Creditors, executes a Deed providing by way of Trust, Inspectorship, or otherwise, for the Distribution of all or Part of his Property among all his Creditors (with or without other Provisions having reference to the Debtor's Liabilities and his Release therefrom), or for the Payment of a Composition to all his Creditors out of his Property or otherwise, may file in Court the Deed when executed by himself.

The Deed may be filed in any Court in which the Debtor might file a Petition for Adjudication of Bankruptcy against himself, and the Court in which it is filed is in this Part of this Act referred to as the Court.

Where the Deed is filed elsewhere than in the Court of Bankruptcy in London, Information of the filing and Contents of the Deed shall be sent to that Court in such Manner as General Orders direct.

Time for filing Deed.

303. The Deed, if executed in England, shall not be filed unless its Execution by the Debtor is attested by a Solicitor, stating in his Attestation the Date of such Execution; and such a Deed shall not be filed after the Expiration of *Seven Days* from that Date.

Execution of Deed out of England.

304. The Deed, if executed by the Debtor in any Place out of England but within the British Dominions, shall be executed before a Court or Judge, or before a Notary Public, or before a Person authorized to administer Oaths there; and the Deed, if executed by the Debtor in any Place out of the British Dominions, shall be executed before a British Minister, Consul, or Vice-Consul, or a Notary Public; and judicial and official Notice shall be taken of the Seal or Signature of any such Court, Judge, Notary Public, Person, Minister, Consul, or Vice-Consul affixed, appended, or subscribed to any Writing purporting to attest the Execution of the Deed; and such a Deed shall not be filed after the Expiration of *Two Months* from the Date of its Execution by the Debtor, except with the Leave of the Court of Bankruptcy in London.

305. After

Stay of Actions.

305. After the filing of the Deed the Court may, on the Application of the Debtor, or of any Creditor who has executed or assented in Writing to the Deed, or of any Trustee or Inspector acting under the Deed, restrain any Action, Suit, or Proceeding against the Debtor on such Terms as the Court thinks fit.

Notice in Gazette.

306. Notice of the filing of the Deed shall be gazetted.

Executions, &c. stayed.

307. After Notice of the filing of the Deed has been gazetted no Execution, Attachment, or other Process against the arranging Debtor's Property in respect of any Debt, and no Process against his Person in respect of any Debt other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of England, shall be available without Leave of the Court.

List of Creditors and Property.

308. Within *Four Days* after the filing of the Deed, the arranging Debtor shall file in the Court a List signed by him, showing the Names, Residences, and Occupations of his Creditors, and the respective Amounts due to them, and a Statement showing his Property and the estimated Value thereof; and he may from Time to Time add to or amend such List or Statement; and every such List, Statement, Addition, and Amendment shall be verified by Affidavit of the Debtor.

Inspection of Deed and List.

309. Any Person stating himself to be a Creditor of the arranging Debtor may (subject to the Payment of the prescribed Fees, if any,) inspect the Deed and List of Creditors and Statement of Property filed, and have a Copy thereof or Extracts therefrom.

Deed to be executed by Proportion of Creditors.

310. The Deed shall be deemed completely executed when it is executed or assented to in Writing (before or after the Execution of the Deed by the Debtor) by a Majority in Number representing *Three Fourths* in Value of the Creditors of the arranging Debtor.

Certificate of complete Execution by Trustee, &c.

311. A Certificate of the complete Execution of a Deed signed by the Trustee or Inspector acting under the Deed, or if there is none by any *Two* of the Creditors who have executed or assented in Writing to the Deed, shall be for all Purposes *primâ facie* Evidence of its complete Execution.

Creditors to be determined as in Bankruptcy except as to 10*l.* Debts paid in full.

312. Every Person who would be entitled to prove a Debt in Bankruptcy shall, for the Purposes of the Computation of the requisite Value, and for all other Purposes, be deemed a Creditor for the Amount, and on the Terms and Conditions, for and on which his Proof would be admitted in Bankruptcy, and accordingly the

the Value of all Securities for his Debt held by him on the Debtor's Property shall be deducted from the Amount of his Debt, but if the Deed provides for the Payment in full of all Creditors whose respective Debts do not exceed *Ten Pounds*, that Class of Creditors shall be excluded in the Computation of the requisite Value.

Application for Declaration of complete Execution.

313. If at any Time within *Three Months* after the filing of the Deed the arranging Debtor or any Trustee or Inspector acting under the Deed, or any Creditor who has executed or assented in Writing to the Deed, considers the Deed to be completely executed, he may apply to the Court for a Declaration of its complete Execution.

Notice of any such Application when intended shall be gazetted.

Declaration of complete Execution.

314. After hearing the Applicant and the arranging Debtor and any Trustee or Inspector acting under the Deed and any Creditor desiring to be heard in support of or in opposition to such Application, the Court, if satisfied that the Deed is in conformity with this Part of this Act, and that it has been completely executed within *Three Months* after the filing of it, shall make by Order a Declaration of the complete Execution of the Deed.

Effect of complete Excution.

315. Subject to Appeal under this Act, the Declaration of complete Execution shall be final and conclusive with respect to the Validity and complete Execution of the Deed; and from and after such Declaration the Deed shall be as binding in all respects on any Creditor who has not executed or assented to it as if he had executed or assented to it, and shall not be liable to be disturbed or impeached at Law or in Equity, by reason of any prior or subsequent Act of Bankruptcy, or on account of anything being contained therein or omitted therefrom, or on any other Account whatever.

Jurisdiction of Court to entertain Applications.

316. Between the filing of the Deed and the Expiration of the Time allowed for complete Execution, and also after a Declaration of complete Execution, the Court exclusively shall have Jurisdiction to enforce in any respect the Execution of the Trusts of the Deed, and shall have Jurisdiction to entertain any Application of the arranging Debtor, or of any Trustee or Inspector acting under the Deed, or of any Creditor or Person claiming to be a Creditor of the arranging Debtor, respecting the Custody or Management (whether interim or final), Distribution, Inspection, or Winding-up of the arranging Debtor's Property or Affairs,—or respecting any Act or Thing relating thereto, done or happening after the Execution of the Deed by the arranging Debtor,—or respecting the Claim of any Person to be a Creditor,—or respecting the Execution or Performance of any of the Trusts, Powers, Covenants, or Provisions

visions of the Deed,—or respecting the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of an Attorney, Solicitor, Accountant, Auctioneer, Broker, or other Person acting or employed under the Deed,—or respecting any Matter for the Submission whereof to the Court Provision is made by the Deed.

Proceedings as in Bankruptcy.

317. On any such Application the Court may proceed and direct and authorize Proceedings with respect to the summoning and Examination of the arranging Debtor and Witnesses and otherwise, as in Bankruptcy, and may make such Order concerning the Subject of the Application and the Costs of it as seems just, which Order shall be enforceable as an Order in Bankruptcy.

Decision of Questions as in Bankruptcy.

318. Except where the Deed expressly provides otherwise, the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, as far as the same are applicable.

On Failure of complete Execution Deed to be Act of Bankruptcy.

319. If a Declaration of complete Execution is not made within *Four Months* after the filing of the Deed, the Execution of the Deed by the Debtor shall be deemed an Act of Bankruptcy, in case a Petition for Adjudication of Bankruptcy against him is presented within *Two Months* after the Expiration of that Period of *Four Months*, and in all other respects the Deed, as among the Parties thereto and otherwise, shall have such Effect only as it would have had if this Part of this Act had not been passed; but in any Case the Court may, if it thinks fit, on good Cause shown, extend from Time to Time that Period of *Four Months*, and in that Case the Period of *Two Months* shall be reckoned from the Expiration of such extended Time.

Proceedings in Bankruptcy before or after complete Execution.

320. If at any Time before a Declaration of complete Execution, a Petition for Adjudication, Trader-Debtor Summons, or other Proceeding having for its Object an Adjudication of Bankruptcy against the arranging Debtor, is pending, the Court shall deal with the Petition, Summons, or other Proceeding as the Court thinks just, and on a Declaration of complete Execution the Court shall dismiss or absolutely stay such Petition, Summons, or other Proceeding.

In case of Fraud, &c. Power for Court to adjudge Debtor Bankrupt.

321. If at any Time before a Declaration of complete Execution it is shown to the Court that the Deed has been filed by the Debtor vexatiously or frivolously or for the Purpose of Delay, and not bonâ fide with a view to an Arrangement beneficial to his Creditors,

or that the Debtor has been guilty of Fraud or culpable Negligence in relation to the List of Creditors or Statement of Property filed by him, or otherwise in relation to the proposed Arrangement, or that he has wilfully refused Obedience to any Summons or Order of the Court under this Part of this Act, the Court may, if it thinks fit, either on or without any Application, but after hearing the Debtor if appearing, or in his Absence if not appearing after Notice, by Order declare the Execution of the Deed by the Debtor to be an Act of Bankruptcy.

In case of Fraud, &c. after complete Execution Power for Court to declare Release void.

322. If at any Time within *Twelve* Months after a Declaration of complete Execution it is shown to the Court that the Debtor has been guilty of Fraud or culpable Negligence in relation to the List of Creditors and Statement of Property filed by him, or otherwise in relation to the Arrangement with his Creditors, or that he has wilfully refused Obedience to any Summons or Order of the Court under this Part of this Act, the Court may, if it thinks fit, either on or without any Application, but after hearing the Debtor if appearing, or in his Absence if not appearing after Notice, by Order declare that the Deed, as far as regards any Release to the Debtor therein contained or provided for, shall be void, and the same shall be void accordingly.

Stay of Proceedings at Law.

323. If at the Time when an Application is made for an Order declaring any Release to be void, an Action at Law is pending in which the Debtor has pleaded the Release as a Defence to the Action, the Court in which the Action is brought, or if that Court is One of the Superior Courts of Law at Westminster, then a Judge of any of those Courts, may on the Application of the Plaintiff stay the Proceedings in the Action until the first-mentioned Application is disposed of; and if on such Application the Release is declared void, such Court or Judge may, on the Application of the Plaintiff, make such Order for striking out the Plea or otherwise as the Court or Judge thinks fit.

Transfer by Creditors.

324. At any Time before or after a Declaration of complete Execution, the Creditors of the arranging Debtor may, by the Votes of a Majority in Value of the Creditors who have executed or assented in Writing to the Deed, resolve that the Deed shall be transferred from the Court in which it is filed to such other Court as they think fit, and the Court in which the Deed is filed shall, unless there appears good Reason to the contrary, make Order accordingly.

Transfer by Court.

325. At any Time before or after a Declaration of complete Execution the Court in which the Deed is filed may, on the Application

cation of a Creditor who has executed or assented in Writing to the Deed, or of the arranging Debtor, or of any Trustee or Inspector acting under the Deed, and on being satisfied, regard being had to the Nature of the Debtor's Transactions, the Situation of his Property, the Residence of his principal Creditors, or other Circumstances, that the Proceedings under the Deed could be more beneficially and conveniently prosecuted in another Court, transfer the Deed to that other Court.

Jurisdiction and Procedure on Transfer.

326. On a Deed being transferred to any Court, that Court shall have Jurisdiction in relation to the Deed as if it had been originally filed therein, and shall not have Power to transfer the Deed to any other Court; and an Appeal shall not lie against an Order for transferring a Deed; and all Orders, Affidavits, and Proceedings made, used, or taken in relation to the Deed before the Transfer thereof shall have the same Effect as if they had originally been Orders, Affidavits, and Proceedings of and in the Court to which the Transfer is made.

Date equivalent to Date of Adjudication.

327. With reference to the Claims of Creditors and for all other Purposes under this Part of this Act, the Date of the Execution of a Deed by the arranging Debtor shall be taken as corresponding with the Date of an Adjudication of Bankruptcy.

Arrangements by Partners with joint Creditors.

328. This Part of this Act shall apply to any Case in which, after the Commencement of this Act, Members of a Partnership make an Arrangement with their Creditors; and any such Arrangement may be made with the joint Creditors without any of the separate Creditors being Parties to or included in the Arrangement.

Arrangements by Partners with separate Creditors.

329. If, where an Arrangement is made by Members of a Partnership, the separate Creditors are Parties to or included in the Arrangement, the Deed shall be deemed completely executed when it is executed or assented to in Writing by a Majority in Number representing *Three Fourths* in Value of the Joint Creditors, and also by a Majority in Number representing *Three Fourths* in Value of the separate Creditors of each of the Partners reckoned as a distinct Class, and not otherwise.

Provision for Debtor not obtaining Assent of Three Fourths.

330. Where a Debtor makes such an Arrangement as is by this Part of this Act provided for but by reason of his being unable to ascertain the Holders of Bills of Exchange or other negociable Instruments drawn, accepted, made, or indorsed by him, or by reason of the Absence of any of his Creditors in a foreign Country, or by reason of any of his Creditors being from any other Cause unknown

unknown to him, the Deed is not executed or assented to in Writing by a Majority in Number representing *Three Fourths* in Value of his Creditors, the Deed shall, notwithstanding anything in this Part of this Act, be deemed completely executed when it is executed or assented to in Writing by a Majority in Number representing *Three Fourths* in Value of his Creditors other than such Holders or absent or unknown Creditors, provided that the following Conditions are complied with:

(1.) That the Deed conveys and assigns all the Estate and Effects of the Debtor to the Trustees (if any) of the Deed, their Heirs, Executors, or Administrators, absolutely, or provides for the Distribution of all the Estate and Effects of the Debtor among all his Creditors; but so that the Exception of the Wearing Apparel of the Debtor and of his Wife and of his Children, and of Household Furniture and other personal Property not exceeding in Value in the whole (inclusive of such Wearing Apparel) *Twenty Pounds*, shall not prevent the Deed from being deemed to comprise all the Estate and Effects of the Debtor:

(2.) That before the filing of the Deed there has been inserted by or on behalf of the Debtor, in a Newspaper or Newspapers published or usually circulating at the Place where the Debtor last carried on Business or resided for the longest Time within the *Six Months* next before the filing of the Deed, an Advertisement requiring his Creditors to signify their Assent to or Dissent from the Deed, by Notice in Writing addressed to the Trustees or Inspectors (if any) acting thereunder, within *Fourteen Days* from the Date of the Insertion of such Advertisement.

Appeal.

331. All Orders or Decisions of the Court under this Part of this Act shall be subject to Appeal as in Bankruptcy.

Saving of Rights against Third Persons.

332. A Creditor of the arranging Debtor executing or assenting to the Deed shall not be prejudicially affected by this Part of this Act with respect to any Right or Remedy against any Person other than the arranging Debtor.

A Creditor of the arranging Debtor not executing or assenting to the Deed, shall not be prejudicially affected by the Deed or by this Part of this Act with respect to any Right or Remedy against any Person other than the arranging Debtor.

Part XIX.—After-acquired Property in Bankruptcy and Arrangement.

Liability of after-acquired Property.

333. Notwithstanding in the Case of Bankruptcy the Order of Discharge, and in the Case of Arrangement under Part XVI. the filing of the Resolution, and in the Case of an Arrangement under Part XVII. or under Part XVIII. the Declaration of complete Execution of the Deed, after-acquired Property of the Bankrupt or arranging Debtor shall remain liable in respect of Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement to the Extent and in the Manner provided in this Part of this Act.

Summons to Bankrupt.

334. In case of Bankruptcy if at any Time or from Time to Time after the Order of Discharge takes effect, it appears to the Satisfaction of the Court of Bankruptcy in London that there is good Cause to believe that, after a reasonable Allowance for the Maintenance of the Debtor and his Family, and the Payment of Debts, Claims, and Demands not proveable under the Bankruptcy, the Debtor is able to pay any Sum towards the Discharge of Debts, Claims, or Demands proveable under the Bankruptcy and not fully paid thereunder, the Court may, if it thinks fit, issue a Summons requiring him to appear and be examined respecting his Ability to make such Payment.

Summons to arranging Debtor.

335. In case of Arrangement if at any Time or from Time to Time after the filing of the Resolution or the Declaration of complete Execution, it appears to the Satisfaction of the Court of Bankruptcy in London that there is good Cause to believe that after a reasonable Allowance for the Maintenance of the arranging Debtor and his Family, and the Payment of Debts, Claims, and Demands not payable under the Arrangement, the Debtor is able to pay any Sum towards the Discharge of Debts, Claims, or Demands payable under the Arrangement, and not fully paid thereunder, the Court may, if it thinks fit, issue a Summons requiring him to appear and be examined respecting his Ability to make such Payment.

Service of Summons in England.

336. Where the Debtor is in England the Summons shall be served personally, unless in any Case the Court thinks fit to direct that Service in some other Manner shall be good Service.

Service of Summons out of England.

337. Where the Debtor is not in England, the Court, on Evidence satisfying it what Service will be effectual to give the Debtor Knowledge of the Summons, may order Service to be made by such Means and in such Manner as it thinks fit.

If no Service, Notice in Gazette and Newspaper.

338. If Service of the Summons is not effected, and the Court is satisfied that the Debtor is keeping out of the Way to avoid Service thereof or of other Process, it may order that a Notice or Notices be inserted in the Gazette, and in a Newspaper or Newspapers published or usually circulated at the Place where is the Debtor's usual or last known Place of Abode or Business in England, requiring him to appear on a Day thereby appointed being not less than *Fourteen Days* after Publication of the First of such Gazette Notices.

Procedure on Appearance of Debtor.

339. On the Appearance of the Debtor he may be examined on Oath or otherwise by the Court respecting his Ability to make such Payment and for the Discovery of Property applicable in that Behalf, and shall produce on Oath or otherwise such Books and Documents in his Possession or Power relating to Property so applicable or alleged to be so applicable as the Court directs, and shall sign his Examination.

Adjournment and Security.

340. The Court may, if it thinks fit, adjourn the Hearing of the Summons from Time to Time and require from the Debtor such Security for his Appearance at the adjourned Hearing as the Court thinks fit.

Concealment on Examination Misdemeanour.

341. If the Debtor does not on his Examination make a full and true Discovery of Property applicable to such Payment, or does not produce all Books and Documents which he is required by the Court to produce, he shall be deemed guilty of a Misdemeanour, and shall be liable, at the Discretion of the Court before which he is convicted on Indictment, to be punished by a Fine not exceeding *Fifty* Pounds, or by Imprisonment for any Term not exceeding *One* Year, with or without Hard Labour, and shall be liable on Summary Conviction to a Penalty not exceeding *Twenty* Pounds, or to Imprisonment for any Term not exceeding *Six* Months, with or without Hard Labour.

On every Prosecution for such a Misdemeanour a Certificate of the Court before which the Debtor was examined, certifying the Proceedings and to the effect that the Debtor has not made such Discovery or Production as aforesaid, shall be Evidence of everything therein stated, and Proof of the contrary shall lie on the Accused.

Power to order Payment of Money into Court.

342. If on the Hearing of the Summons the Court is satisfied that the Debtor is able to make such Payment, the Court may make an Order to the Effect that within a Time therein specified the Debtor do pay into Court such a Sum as will produce for the Benefit of the Creditors under the Bankruptcy or Arrangement such

such a Dividend as the Court thinks fit, but so that any Debtor be not required under this Part of this Act to pay more than *Ten Shillings* in the Pound on the Amount of the Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement, inclusive of any Dividend paid thereunder, and of the Payments from Time to Time made under this Part of this Act.

Power to appoint Receiver, &c.

343. On or after the making of any such Order the Court may, if it thinks fit, appoint the Provisional Trustee to be the Receiver of the Debtor's Property, who shall act and account as such subject and according to General Orders, and may, if it thinks fit, order that no Execution, Attachment, or other Process against the Debtor's Property in respect of any Debt, and no Process against his Person in respect of any Debt other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of England, shall be available without Leave of the Court of Bankruptcy in London, and may, if it thinks fit, restrain any Action, Suit, or Proceeding against the Debtor on such Terms as the Court thinks fit.

On Payment Discharge of Orders.

344. If on or before the Day specified in the Order for Payment the Debtor pays into Court the Sum therein specified, the Court shall discharge the former Orders as far as the Circumstances require.

Vesting of Estate on Failure of Payment.

345. If on or before the Day specified the Debtor does not pay into Court the Sum specified, then from and immediately after that Day the Debtor's Estate shall by virtue of this Act vest in the Provisional Trustee, and the Court may, if it thinks fit, order the same to be sold and disposed of for the Benefit of the Creditors.

Application of Money paid in or Proceeds of Sale.

346. All Money paid into Court by the Debtor in pursuance of any such Order, and the net Proceeds of any Sale and Disposition by Order of the Court, shall be applied under the Direction of the Court in or towards the Payment rateably of Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement, and not fully paid thereunder, subject to a reasonable Allowance for the Maintenance of the Debtor and his Family, and to the Payment in full of Debts, Claims, and Demands not so proveable or payable.

Costs.

347. The Court may make such Order respecting the Costs or the Charges and Expenses of any Person in relation to a Summons under this Part of this Act and the Mode of recovering them as seems just.

Saving for Liability under Insolvent Debtors Acts.

348. Where the Bankrupt has before Adjudication of Bankruptcy taken the Benefit of any Act for the Relief of Insolvent Debtors, nothing in this Part of this Act shall interfere with the Operation of the Act of which he so took the Benefit, in respect of the Liability of Property acquired after his Discharge under that Act, if and as far as any such Liability would have existed if this Act had not been passed.

1849, ss. 251–256.
1859, §§ 143–148.
1861, ss. 221–225.
1866, §§ 313–321.

Part XX.—Misdemeanours in Bankruptcy and Arrangement.

Misdemeanours in Bankruptcy.

349. Any Person adjudged Bankrupt after the Commencement of this Act shall, in each of the Cases following, be deemed guilty of a Misdemeanour, and on Conviction thereof shall be liable, at the Discretion of the Court before which he is convicted, to be imprisoned for any Time not exceeding *Three Years*, with or without Hard Labour, that is to say,—

1. If he does not, on the Day limited for his Surrender, and before *Three* of the Clock on that Day, or on the Day and at the Hour allowed him for finishing his Examination, after written Notice thereof served on him personally or left at his usual or last known Place of Abode or Business, and after the Notice by this Act directed is gazetted, surrender himself to the Court (having no lawful Impediment allowed by the Court), and sign the Surrender, and submit to be examined before the Court from Time to Time:
2. If he does not on his Examination fully and truly discover to the best of his Knowledge and Belief all his Property, Real and Personal, inclusive of his Rights and Credits, and how, and to whom, and for what Consideration, and when he disposed of, assigned, or transferred any Part thereof, except such Part as has been sold and disposed in the Way of his Trade or Business (if any), or laid out in the ordinary Expense of his Family, and deliver up to the Court, or dispose of as the Court directs, all such Part thereof as is in his Possession, Custody, or Power, except the necessary Wearing Apparel of himself, his Wife and Children, and deliver up to the Court all Books and Documents in his Possession, Custody, or Power, relating to his Property or Affairs:
3. If after Adjudication, or within *Two Months* next before Adjudication, with Intent to defraud, he removes or conceals any Part of his Property to the Value of *Ten Pounds* or upwards, or conceals any Debt due to or from him:

4. If,

4. If, with Intent to defraud, he omits any Property or Credit from his Statement of Affairs :

5. If in case of any Person having to his (the Bankrupt's) Knowledge or Belief proved a false Debt under his Bankruptcy, he fails to disclose the same to the Trustee within *One Month* after coming to the Knowledge or Belief thereof :

6. If after the filing of the Petition for Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, he prevents or withholds the Production of any Book or Document relating to his Property or Affairs :

7. If after Adjudication, or within *Three Months* next before Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, he parts with, conceals, destroys, alters, mutilates, or falsifies, or causes to be concealed, destroyed, altered, mutilated, or falsified, any Book or Document affecting or relating to his Property or Affairs, or makes or is privy to the making of any false or fraudulent Entry or Statement in or Omission from any such Book or Document :

8. If, being a Trader, after Adjudication, or at any Meeting of his Creditors *Three Months* next before Adjudication, he attempts to account for any Part of his Property by fictitious Losses or Expenses :

9. If, being a Trader, within *Three Months* next before Adjudication, under the false Pretence of carrying on Business and Dealing in the ordinary Course of Trade, he, with Intent to defraud, obtains any Property on Credit :

10. If, being a Trader, he, with Intent to defraud, within *Three Months* next before the filing of the Petition for Adjudication, pawns, pledges, or disposes of otherwise than in the ordinary Way of his Trade, any Property which he has obtained on Credit, and has not paid for.

Misdemeanours in Arrangement by Deed.

350. Any Person who after the Commencement of this Act makes an Arrangement by Deed with his Creditors under Part XVIII. of this Act shall, in each of the Cases following, be deemed guilty of a Misdemeanour, and on Conviction thereof shall be liable, at the Discretion of the Court before which he is convicted, to be imprisoned for any Time not exceeding *Three Years*, with or without Hard Labour ; that is to say,—

1. If after the filing of the Deed, or within *Two Months* next before the filing thereof, with Intent to defraud, he removes or conceals any Part of his Property to the Value of *Ten* Pounds or upwards :

2. If, in case of any Person having to his (the arranging Debtor's) Knowledge or Belief executed or in Writing assented to the Deed as a Creditor in respect of a Debt wholly or partly false, he fails to disclose the same to the Court within *One Month* after coming to the Knowledge or Belief thereof:
3. If, in case of any Person having to his (the arranging Debtor's) Knowledge or Belief procured himself to be admitted as a Creditor under the Deed in respect of a Debt wholly or partly false, he fails to disclose the same to the Court within *One Month* after coming to the Knowledge or Belief thereof:
4. If, being a Trader, within *Three Months* next before the filing of the Deed, under the false Pretence of carrying on Business and dealing in the ordinary Course of Trade, he, with Intent to defraud, obtains any Property on Credit:
5. If, being a Trader, he, with Intent to defraud, within *Three Months* next before the filing of the Deed, pawns, pledges, or disposes of, otherwise than in the ordinary way of his Trade, any Property which he has obtained on Credit, and has not paid for.

Saving in respect of past Acts.

351. Nothing in this Part of this Act shall make any Person liable to Punishment in respect of any Act, Omission, or Thing done or happening before the Commencement of this Act, although such Person is adjudged Bankrupt or enters into an Arrangement by Deed after the Commencement of this Act, in any Case where he would not have been liable to Punishment in respect of the same Act, Omission, or Thing if this Act had not been passed.

Power of Commitment, &c. for Misdemeanours.

352. If at any Time it appears to the Court that any Person has committed a Misdemeanour under this Part of this Act, the Court shall have and may exercise such Jurisdiction, Rights, Powers, and Privileges for summoning, apprehending, committing, remanding, and bailing him, and otherwise proceeding in respect of him, as are vested in and exerciseable by Justices of the Peace in respect of Persons charged before them with indictable Misdemeanours committed within their Jurisdiction; and for the Purposes of this Section the Provisions of the Act of the Session of the Eleventh and Twelfth Years of Her Majesty's Reign (Chapter Forty-two), "to facilitate the Performance of the Duties "of Justices of the Peace out of Sessions within England and "Wales with respect to Persons charged with indictable Offences," shall (with such Variations as the Nature of the Case requires) extend and apply to the Judges and Commissioners acting under this Act and to their Proceedings.

11 & 12 Vict. c. 42.

353. The

Power to appoint Prosecutor.

353. The Court may direct that in case of Bankruptcy the Trustee, or an Inspector, or any Creditor of the Bankrupt, and in case of Arrangement by Deed any Trustee or Inspector acting under the Deed, or any Creditor of the arranging Debtor, shall act as the Prosecutor in respect of any Misdemeanour under this Part of this Act.

Certificate of Court to be Evidence on Trial in case of Bankruptcy.

354. On the Application in case of Bankruptcy of the Trustee or an Inspector, or of any Creditor who has proved, the Court may, if it thinks fit, give a Certificate to the Effect following :—

1. That the Bankrupt did not, on the Day limited for his Surrender (specified in the Certificate), and before *Three* of the Clock on that Day, or on the Day and at the Hour allowed him for finishing his Examination (specified in the Certificate), after written Notice thereof served on him personally or left at his usual or last known Place of Abode or Business (specified according to the Fact), and after the Notice by this Act directed is gazetted, surrender himself to the Court (having no lawful Impediment allowed by the Court), and sign the Surrender, and submit to be examined before the Court from Time to Time : or,
2. That the Bankrupt did not on his Examination fully and truly discover to the best of his Knowledge and Belief all his Property, Real and Personal, inclusive of his Rights and Credits, and how, and to whom, and for what Consideration, and when he disposed of, assigned, or transferred any Part thereof, except such Part as has been sold and disposed in the Way of his Trade or Business (if any), or laid out in the ordinary Expense of his Family, and deliver up to the Court, or dispose of as the Court directs, all such Part thereof as is in his Possession, Custody, or Power, except the necessary Wearing Apparel of himself, his Wife and Children, and deliver up to the Court all Books and Documents in his Possession, Custody, or Power relating to his Property or Affairs (the Particulars of such Offence being specified in the Certificate) : or,
3. That a Person (specified in the Certificate) having to the Bankrupt's Knowledge or Belief (the Facts showing such Knowledge or Belief being specified in the Certificate) proved a false Debt (specified in the Certificate) under his Bankruptcy, he fails to disclose the same to the Trustee within *One Month* after coming to the Knowledge or Belief thereof : or,

4. That after the filing of the Petition for Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, the Bankrupt had prevented or withheld the Production of a Book or Document relating to his Property or Affairs (specified in the Certificate):

and on any Trial of the Bankrupt for any such Thing being a Misdemeanour under this Act the Certificate shall be received in Evidence against him, and shall be sufficient Evidence of the Matters therein certified until the contrary is shown.

Expenses of Prosecutions.

355. On the Application, in case of Bankruptcy of the Trustee or an Inspector, or of any Creditor, and in case of an Arrangement by Deed of any Trustee or Inspector acting under the Deed, or of any Creditor, the Court may, if it thinks fit, give a Certificate to the Effect that it approves of the Prosecution of the Bankrupt for a Misdemeanour under this Act, the same being specified in the Certificate, and on the Production of such Certificate the Costs of the Prosecution shall be allowed by the Court before which the Trial is had, unless that Court otherwise orders for special Reasons stated in the Order; and such Expenses shall be paid and borne as Expenses of Prosecutions for Felony are paid and borne; and where the Court gives such a Certificate, Expenses incurred on behalf of the Prosecution not paid and borne as aforesaid shall, when taxed, be paid, under an Order of the Lord Chancellor, out of Money standing to the Chief Registrar's Account.

Reference of Papers to Attorney General.

356. Where it appears to the Satisfaction of the Court that there are Grounds for the Institution of a Prosecution against the Bankrupt for a Misdemeanour under this Part of this Act, the Court may, if it thinks fit, either pending the Proceedings under Bankruptcy or afterwards, order that the Trustee do lay the Papers before Her Majesty's Attorney General (or Her Majesty's Solicitor General during a Vacancy in the Office of Attorney General) for his Direction thereon.

Form of Indictments.

357. In any Indictment or Information for any Misdemeanour under this Act it shall be sufficient to set forth the Substance of the Offence charged, without alleging or setting forth any Debt, Act of Bankruptcy, Trading, Petition, or Adjudication, or any Summons, Warrant, Order, Rule, or Proceeding of or in any Court acting under this Act.

Repeal of Part of 5 & 6 Vict. c. 38. s. 1.

358. So much of the Act of the Session of the Fifth and Sixth Years of Her Majesty's Reign (Chapter Thirty-eight), "to define "the Jurisdiction of Justices in General and Quarter Sessions of "the

" the Peace," as excludes from the Jurisdiction of Justices and Recorders at Sessions of the Peace or Adjournments thereof the Trial of Persons for Offences against any Provision of the Laws relating to Bankrupts is hereby repealed.

Part XXI.—Miscellaneous Provisions respecting Bankruptcy and Arrangement.

Aliens and Denizens. 1849, s. 277.

359. This Act shall extend to Aliens and Denizens, both to make them subject thereto and to entitle them to all the Benefits given thereby.

Trader having Privilege of Parliament. 1849, s. 66.

360. If a Trader having Privilege of Parliament commits an Act of Bankruptcy he may be dealt with under this Act in like Manner as any other Trader, but he shall not be liable to be arrested or imprisoned during the Time of such Privilege, except in case of a Misdemeanour under this Act.

Adjudication in England where Debtor adjudged Bankrupt in India, &c. 1861, s. 218.

361. If any Person who has been adjudged or declared Bankrupt or Insolvent by any British Court out of England, and has not obtained his Discharge or Certificate, is seised of or entitled to any Real Property in England, the Assignee, Trustee, or other Representative of his Creditors may apply for, and, on Proof of such Bankruptcy or Insolvency, and of the Absence of the Discharge or Certificate, and without further Evidence, obtain, Adjudication against him in the Court of Bankruptcy in London; and such Adjudication shall have the like Effect and Consequences as if he had been originally adjudged Bankrupt by that Court.

Saving for Insolvency Act (India), 11 & 12 Vict. c. 21.

362. Nothing in this Act shall affect the Provisions of the Act of the Session of the Eleventh and Twelfth Years of Her Majesty's Reign (Chapter Twenty-one), "to consolidate and amend the Laws relating to Insolvent Debtors in India," and the same shall operate in all respects as if this Act had not been passed.

Notice to Agent of Company. 1849, ss. 87, 165. 1866, §§ 156, 157.

363. If an accredited Agent of a Corporation or Company has, in the course of his Agency, Notice of an Act of Bankruptcy, the Corporation or Company shall be deemed to have thereby such Notice.

Orders and Notices by Post. 1861, s. 201. 1866, § 311.

364. Documents by this Act required to be served on or sent to any Person, and not by this Act directed to be served personally, may be sent by Post addressed to the last known Place of Business or Abode of such Person, subject to such Regulations respecting Registration and other Things as General Orders direct.

 365. General

General Orders as to Advertisements. 1861, s. 202. 1866, § 312.

365. General Orders respecting the Form and Contents of Notices in the Gazette and elsewhere may provide for Notices concerning more Bankruptcies, or more Deeds or other Matters, than One being comprised in One Advertisement, and may fix the Price to be paid to the Printer of the Gazette for Advertisements, which Price he shall receive as full Payment.

Inserting Advertisement without Authority. 1849, s. 272. 1866, § 319.

366. If any Person inserts or causes to be inserted in the Gazette or in any Newspaper any Advertisement under or purporting to be under this Act without Authority, or knowing the same to be false in any material Particular, he shall be guilty of an Offence against this Act, and shall for every such Offence be liable on summary Conviction to a Penalty not exceeding *Twenty Pounds*, or to Imprisonment for any Term not exceeding *Three Months* with or without Hard Labour.

Duty of Bankrupt to attend Trustee. 1849, s. 105.

367. The Bankrupt (if not in Prison or in Custody) shall, after Surrender, attend the Trustee on every reasonable Notice in Writing given to him or left at his usual or last known Place of Abode or Business, and shall assist the Trustee in making out the Accounts of his Estate.

Right of Bankrupt to inspect Books, &c. 1849, s. 105.

368. The Bankrupt, after Surrender, at all reasonable Times before the Expiration of the Time allowed to him to finish his Examination, may inspect his Books and Documents in the Presence of the Trustee or any Person appointed by the Trustee, and bring with him each Time any Person or *Two* Persons to assist him.

Duty of Bankrupt after Discharge. 1849, s. 105.

369. The Bankrupt, after his Order of Discharge takes effect, shall, on Demand in Writing given to him, or left at his usual or last known Place of Abode or Business, attend the Trustee to settle any Accounts between his Estate and any Debtor to or Creditor of the same, or attend any Court to give Evidence respecting the same, or do any Act necessary for getting in or protecting his Estate, for which Attendance he shall be entitled to be paid *Five Shillings* per Day by the Trustee out of his Estate.

Production of Proceedings and Copies, &c. 1849, s. 232.

370. The proper Officer of the Court and the Trustee of any Bankrupt's Estate, or any Trustee or Inspector acting under any Arrangement, on the reasonable Application of the Bankrupt or arranging Debtor, or of his Solicitor, or of any Creditor who has proved, or has executed or assented in Writing to the Deed, or of his Solicitor, shall produce and show to the Applicant all Petitions, Orders, Proceedings, Books, and Documents relating to the Bankruptcy or Arrangement, and the Applicant may have Copies or Extracts thereof or therefrom, as General Orders direct.

371. If

371. If any Gaoler or Person to whose Custody any Bankrupt or other Person is duly committed refuses to receive him, or suffers him to escape, such Gaoler or Person shall for every such Offence be liable to forfeit a Sum not exceeding *Five hundred* Pounds.

Escape, &c. of Persons committed.
1849, s. 274.
1866, § 322.

Evidence.

372. The Court may summon before it and examine the Bankrupt's Wife, or any Person known or suspected to have in his Possession any Part of the Bankrupt's Estate, or supposed to be indebted to the Bankrupt, or believed to be capable of giving Information concerning the Bankrupt, his Affairs, or his Estate, and may require her or him to produce any Documents in her or his Possession, Custody, or Power relative thereto; and if the Person summoned does not obey the Summons, the Court may by Warrant authorize any Person to apprehend and arrest her or him, and bring her or him before the Court for Examination.

Examination of Bankrupt's Wife and other Persons.
1849, ss. 118, 120.
1866, § 192.

373. If the Court is satisfied that any Person summoned to be examined is keeping out of the way, and cannot be personally served with the Summons, and that due Pains have been taken to effect such personal Service, the Court may order that Service to be effected in such Manner as the Court thinks shall be equivalent to personal Service.

Service of Summons on Person keeping out of the way.
1849, s. 121.
1866, § 193.

374. Every Witness attending before the Court may have such Expenses allowed to him as the Court thinks fit; and a Person summoned to attend as a Witness before the Court shall not be liable to any Penalty or Punishment for failing to obey the Summons, unless the reasonable Expenses of his Attendance have been first paid or tendered to him.

Expenses of Witnesses Attendance.
1849, s. 250.
1866, § 195.

375. If the Court is satisfied that the Bankrupt is keeping out of the way, and cannot be personally served with a Summons, and that due Pains have been taken to effect such personal Service, or that there is reasonable Cause for believing that he is about to quit England, or to remove or conceal any of his Property, unless he is forthwith apprehended, the Court may by Warrant authorize any Person to apprehend him and bring him before the Court for Examination.

Apprehension of Bankrupt if keeping out of the way.
1849, s. 119.

376. If the Bankrupt or his Wife or any other Person refuses (when required by the Court) to be sworn, or refuses to answer any Question put by the Court, or does not fully answer to the Satisfaction of the Court any such Question, or refuses to sign his or her Examination when required by the Court, or does not produce all

Commitment on Refusal to be sworn, &c.
1849, s. 260.
1866, § 196.

Books and Documents which he or she is required by the Court to produce, the Court may by Warrant commit him or her to such Prison as the Court thinks fit, there to remain without Bail until he or she submits to the Court, and does the Thing which he or she has so refused or failed to do.

Contents of Warrant. 1861, s. 112. 1866, § 198.

377. Any such Warrant of Commitment need not set forth or specify any Part of the Examination of the Person committed, but shall refer to the Examination as remaining on the File of Proceedings, and shall specify the Date thereof.

Question to be specified. *Ibid.*

378. Where any Person is committed for refusing to answer or not fully answering a Question on Examination, that Question shall be specified in the Examination.

Delivery of Copy of Examination.

379. A Copy of the Examination of the Person so committed shall be delivered personally to him or her within *Forty-eight Hours* from his actual Lodgment in Prison, and in default thereof the Person committed shall be discharged from Custody either by the Court committing such Person, or by any Court or Judge before whom such Person is brought by Habeas corpus, with such Costs (if any) as the Court or Judge thinks fit.

Discharge on Habeas corpus. 1861, s. 113. 1866, § 199.

380. On Habeas corpus sued out by the Person committed for Discharge on any Ground, such Person shall not be discharged by reason only of any Informality, but if the Court or Judge before whom such Person is brought, on Consideration of the whole Examination, is of opinion that the answering therein is satisfactory, the Court or Judge may order the Discharge of the Person committed.

Summoning and Examination of Witnesses. 1861, s. 50. 1866, §§ 59, 62.

381. The Court of Bankruptcy and any County Court acting under this Act may in any Matter within its Jurisdiction summon and examine any Person, and may take Evidence orally (to be taken down by a Shorthand Writer or otherwise), before the Court or a Registrar, or by written Interrogatories or on Affidavit, or by Commission abroad, as General Orders direct, or, subject thereto, as the Judge or Commissioner in any Case thinks fit.

Witnesses out of Jurisdiction. 17 & 18 Vict. c. 34. 1861, s. 217. 1866, § 67.

382. The Act of the Session of the Seventeenth and Eighteenth Years of Her Majesty's Reign (Chapter Thirty-four), "to enable "the Courts of Law in England, Ireland, and Scotland to issue "Process to compel the Attendance of Witnesses out of their "Jurisdiction, and to give effect to the Service of such Process in "any Part of the United Kingdom," shall extend to and the Powers

Powers thereof shall be exercised by the Court of Bankruptcy, and a County Court for the Purposes of this Act.

Examination in Scotland or Ireland.

383. The Court of Bankruptcy or any County Court acting under this Act may, if it thinks fit, order that a Person named in the Order, being in Scotland or in Ireland, shall be examined there.

1861, ss. 216, 217.
1866, §§ 68, 69.

Taking of Affidavits.

384. An Affidavit may be used in any Matter under this Act if sworn as follows :—

(1.) In any Place in the British Dominions before a Court or Judge, or before a Person authorized to administer Oaths there :

1861, s. 207.
1866, § 63.

(2.) In any Place out of the British Dominions before a British Minister, Consul, or Vice-Consul :

And judicial and official Notice shall be taken of the Seal or Signature of any such Court, Judge, Person, Minister, Consul, or Vice-Consul affixed, appended, or subscribed to any Writing purporting to attest the swearing of any such Affidavit.

Perjury in Affidavits out of England.

385. If any Person wilfully and corruptly swears falsely in any Affidavit taken out of England and used in any Matter under this Act he shall be deemed guilty of Perjury in every Case where having so sworn before a competent Authority in England he would be deemed guilty of Perjury, and may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence may be laid and charged to have been committed in any County or Place in England in which he is in Custody, as if the Offence had been actually there committed.

Death of Witness.

386. In case of the Death of a Witness whose Evidence has been received by any Court in any Proceeding under this Act, his Deposition, purporting to be sealed with the Seal of the Court, or a Copy thereof purporting to be so sealed, shall be admitted as Evidence of the Matters therein deposed to.

1849, s. 242.
1866, § 75.

Advertisements when Evidence.

387. The Gazette or a Newspaper containing an Advertisement by this Act directed or authorized to be made therein shall be admitted as Evidence of any Matter therein contained and by this Act directed or authorized to be advertized.

1849, s. 240.
1866, § 74.

Records under Seal Evidence.

388. Any Petition, Order, Certificate, Deposition, or Proceeding under this Act purporting to be sealed with the Seal of the Court of Bankruptcy, or of any County Court, or any Writing purporting to be a Copy thereof, and to be so sealed, shall, either for Purposes of this Act or not, be admitted as Evidence of the

1849, s. 236.
1861, s. 263.
1866, § 71.

Document which it purports to be, or whereof it purports to be a Copy, and of the making of the Orders and taking of the Proceedings therein stated or referred to by the Person at the Time and in the Manner therein or thereon stated or appearing, and shall be a Record of the Court under the Seal whereof it purports to be, without further Proof.

Judicial Notice of Seal, &c.
1861, s. 204.
1866, § 72.

389. Judicial and official Notice shall be taken of the Seal of the Court of Bankruptcy or of a County Court, and of the Signature of any Judge, Commissioner, or Registrar acting under this Act, attached or subscribed to any judicial or official Proceeding, or Document purporting to be made or signed in a Matter in Bankruptcy or other Matter under this Act.

Commitment.

Commitment of Persons disobeying Orders of Court.
1861, s. 226.
1866, § 324.

390. If any Person wilfully disobeys any Rule or Order of the Court of Bankruptcy the Court may, by Warrant, commit him to Prison, there to remain without Bail until the Court or the Court of Appeal makes Order to the contrary.

Scotland and Ireland.

Enforcement in Scotland and Ireland of Orders in England, and vice versâ.
1861, s. 219.
1866, § 55.

391. Orders of any Court in England under this Act shall be enforced in Scotland and Ireland by the Courts there having Jurisdiction in Bankruptcy or for the Relief of Insolvent Debtors.

Deliverances, Interlocutors, and Decrees of any Court in Scotland for or in the course of any Bankruptcy or Insolvency shall be enforced by any Court acting under this Act.

Orders of any Court in Ireland having Jurisdiction in Bankruptcy or for Relief of Insolvent Debtors shall be enforced by any Court acting under this Act.

In every such Case the Order, Deliverance, Interlocutor, or Decree shall be enforced in like Manner as nearly as may be as if an Order, Decision, or Decree to the like effect had been made or given by the Court required by this Section to enforce the same in a Matter within its own Jurisdiction.

Protection of Persons in Execution of Act.

1849, s. 159.
Actions against Persons executing Act not to be brought without Notice, &c.

392. No Action or Proceeding shall lie against any Trustee or other Person acting under the Authority or in the Execution or intended Execution or in pursuance of this Act, for any alleged Irregularity or Trespass or other Act or Thing done or omitted by him under this Act, unless Notice in Writing (specifying the Cause of the Action or Proceeding, and the Name and Residence of the intending

intending Plaintiff or Prosecutor, and of his Attorney or Agent in the Matter,) is given by the intending Plaintiff or Prosecutor to the intended Defendant, *One Month* at least before the Commencement of the Action or Proceeding, nor unless the Action or Proceeding is commenced within *Three Months* next after the Act or Thing complained of is done or omitted, or in case of a Continuation of Damage within *Three Months* next after the doing of such Damage has ceased; and any such Action shall be laid and tried in the County or Place where the Cause of Action arose, and not elsewhere.

Plea in Action.

393. In any such Action the Defendant may plead generally that the Act or Thing complained of was done or omitted by him as Trustee, or (as the Case may be) when acting otherwise under the Authority or in the Execution or intended Execution or in pursuance of this Act, and may give all special Matter in Evidence.

Evidence in Action.

394. On the Trial of any such Action the Plaintiff shall not be permitted to go into Evidence of any Cause of Action not stated in his Notice.

Tender of Amends, &c.

395. The Plaintiff in any such Action shall not succeed if Tender of sufficient Amends is made by the Defendant before the Commencement of the Action; and in case no Tender has been made the Defendant may, by Leave of the Court in which the Action is brought, at any Time pay into the Court such Sum of Money as he thinks fit, whereupon such Proceeding and Order shall be had and made in and by the Court as may be had and made on the Payment of Money into Court in an ordinary Action.

Costs of Defendant.

396. If in any such Action the Plaintiff does not succeed in obtaining Judgment the Defendant shall receive such full and reasonable Indemnity as to all Costs, Charges, and Expenses incurred in and about the Action as may be taxed and allowed by the proper Officer, subject to Review; and though a Verdict is given for the Plaintiff in the Action, he shall not have Costs against the Defendant unless the Judge before whom the Trial is had certifies his Approval of the Action and Verdict.

Protection of Messenger.

1849, ss. 107, 108.

No Action against Persons under Warrant except on Demand of Copy, &c.

397. No Action shall be brought against any Messenger or his Assistant, or other Person appointed by the Court, for anything done in obedience to any Warrant of the Court, unless a Demand for a Perusal of such Warrant, and for a Copy thereof, has been left at the usual Place of Abode of such Messenger, Assistant, or Person by

by the Party intending to bring such Action, or by his Attorney or Agent, in Writing signed by the Party demanding the same, nor unless Compliance with the Demand has been refused or neglected for *Six Days* after such Demand.

Petitioning Creditor to be made Defendant.

398. If after such Demand, and Compliance therewith, any Person brings an Action against such Messenger, Assistant, or Person without making the Petitioning Creditor, if living, a Defendant, the Jury at the Trial of the Action, on Production and Proof of the Warrant, shall give their Verdict for the Defendant, notwithstanding any Defect of Jurisdiction in the Court by which the Warrant was granted.

Verdict for Messsenger.

399. If such Action is brought against the Petitioning Creditor, and such Messenger, Assistant, or Person, the Jury shall, on Proof of the Warrant, give the Verdict for such Messenger, Assistant, or Person, notwithstanding any such Defect of Jurisdiction.

Plaintiff's Costs.

400. If the Verdict is given against the Petitioning Creditor, the Plaintiff shall recover his Costs against him, to be taxed so as to include such Costs as the Plaintiff is liable to pay to such Messenger, Assistant, or Person.

Proof that Defendant is Petitioning Creditor sufficient.

401. In any Action brought against the Petitioning Creditor, either alone, or jointly with such Messenger, Assistant, or Person, for anything done in obedience to the Warrant, Proof by the Plaintiff that a Defendant is Petitioning Creditor shall be sufficient for the Purpose of making him liable in the same Manner and to the same Extent as if the Act complained of in the Action had been done by him personally.

Warrants and Process.

Application of County Court Enactments as to Warrants, &c.
9 & 10 Vict. c. 95. ss. 114-117.
1861, s. 228.
1866, § 325.

402. Sections One hundred and fourteen to One hundred and seventeen (both inclusive) of the Act of the Session of the Ninth and Tenth Years of Her Majesty's Reign (Chapter Ninety-five), "for the more easy Recovery of small Debts and Demands in "England," shall extend and apply to Warrants and Process of the Court of Bankruptcy and of the County Courts acting under this Act, and to Officers of those Courts acting in execution of such Warrants and Process, as if those Sections were here re-enacted and in Terms made so applicable.

Disqualifications and Exemptions.

Sitting in Parliament, serving on Juries, &c.

403. The Judges and Commissioners of the Court of Bankruptcy, County Court Judges, Registrars, Accountant, and Taxing Master shall

shall be incapable of being elected to or sitting in Parliament, and they and the Clerks and Ushers shall not be liable without their Consent to serve any parochial or corporate Office, or Office in the Appointment of any Corporation, or the Office of Assessor or Collector of Taxes, and shall be exempt and disqualified from being returned and from serving on any Jury or Inquest, and shall not be inserted in any List of Men qualified or liable to serve as Jurors.

1832, s. 51. 1842, s. 62. 1849, s. 47. 1859, § 72. 1862, s. 4. 1860, § 39.

Buildings.

404. The Building in Basinghall Street in the City of London known as the Court of Bankruptcy, and the Building in Portugal Street, Lincoln's Inn Fields, formerly known as the Court for Relief of Insolvent Debtors, with the Sites thereof, are hereby declared to be vested in the Commissioners of Her Majesty's Works and Public Buildings, and shall be used as the Lord Chancellor directs; and the Buildings provided for the Court of Bankruptcy in the Country Districts are hereby vested in the last-mentioned Commissioners, and shall be used for Purposes of this Act.

Courts and Buildings. 1849, s. 64. 1861, s. 68. 1866, § 3.

Annual Report.

405. The Registrars and other Officers of the Courts acting in Bankruptcy shall make to the Chief Registrar, in such Manner and Form as General Orders direct, annual or other Returns of the Business of their respective Courts and Offices, and from such Returns the Chief Registrar shall frame a general Report to the Lord Chancellor, judicial and financial, respecting all Matters within this Act, which Report shall be laid before both Houses of Parliament.

Accountant, Taxing Master, &c. to make Annual Returns. 1861, s. 67. 1866, § 310.

PART XXII.—FUNDS OF COURT OF BANKRUPTCY; SALARIES; ANNUITIES; FEES; STAMPS.

406. All Money for the Time being in the Bank of England on account of the Estates of Bankrupts, or in Matters of Bankruptcy, shall be deemed One common and general Cash, and shall be promiscuously issued to answer the Demands thereon.

Money in Bank of England to be common and general Cash. 1835, s. 18.

407. There shall be continued at the Bank of England, in the Name of the Accountant in Bankruptcy, the Three following Accounts:

Accounts at Bank of England.

The Bankruptcy Fund Account;
The Unclaimed Dividend Account;
The Chief Registrar's Account.

 408. The

Securities on Three Accounts to remain.

408. The Securities at the Commencement of this Act standing to the Bankruptcy Fund Account, Unclaimed Dividend Account, and Chief Registrar's Account, shall so remain, subject to the Provisions of this Act.

Investments for Bankruptcy Fund Account. 1835, s. 1. 1849, s. 34. 1866, § 33.

409. Out of Money belonging to Estates of Bankrupts, or to Suitors in Matters of Bankruptcy, and from Time to Time remaining uninvested in the Bank of England in the Name of the Accountant in Bankruptcy, Money shall, by virtue of an Order of the Lord Chancellor, be from Time to Time invested, in the Name of the Accountant in Bankruptcy, in Government or Parliamentary Securities, which shall be placed to the Bankruptcy Fund Account.

Unclaimed Dividends, &c. to go to unclaimed Dividend Account.

410. Dividends unclaimed, and any undivided surplus or other Money unclaimed, the Produce of any Bankrupt's Estate, shall, after the Expiration of *Twelve* Months from the Declaration of the Dividend, or from the Time at which the surplus or other Money became undivided or unclaimed in the Hands of the Trustee, be paid by the Trustee into the Bank of England to the Credit of the Accountant in Bankruptcy, and shall be carried to the Unclaimed Dividend Account.

Orders for unclaimed Dividend Account for Payment of Dividends, &c.

411. Money for the Time being standing to the Credit of the Unclaimed Dividend Account shall be subject to the Order of the Court of Bankruptcy in London for the Payment thereout of any Dividend or for the Distribution of any Money in the Matter to which any Part thereof originally belonged.

Investments for Unclaimed Dividend Account.

412. Out of the Money for the Time being in the Bank of England, on the Unclaimed Dividend Account Money shall, by virtue of an Order of the Lord Chancellor, be from Time to Time invested, in the Name of the Accountant in Bankruptcy, in Government or Parliamentary Securities, which shall be carried to the same Account.

Investments for Chief Registrar Account.

413. Out of Money from Time to Time remaining uninvested in the Bank of England on the Chief Registrar's Account Money shall, by virtue of an Order of the Lord Chancellor, be from Time to Time invested, in the Name of the Accountant in Bankruptcy, in Government or Parliamentary Securities, which shall be placed to the same Account.

Sale of Securities on Bankruptcy Fund and Unclaimed Dividend Accounts. 1835, s. 16.

414. If at any Time Money invested on the Bankruptcy Fund Account or the Unclaimed Dividend Account is wanted to answer any Demand thereon in respect of Bankrupts Estates, the Lord Chancellor shall direct a sufficient Part of the Securities on which the

the same is invested to be sold, and the Money arising thereby shall be paid into the Bank of England, in the Name of the Accountant in Bankruptcy, in such Manner as the Lord Chancellor directs, in order that the Demands in respect of Bankrupt's Estates may at all Times be fully paid out of the Common and General Cash belonging to those Estates.

Provision for Insufficiency of Securities on Two Accounts.
1835, s. 20.
1849, s. 55.
1866, § 34.

415. If at any Time the Money and Securities standing to the Bankruptcy Fund Account and the Unclaimed Dividend Account are not sufficient to answer the Demands of any Bankrupt or his Creditors, or other Persons interested therein, the Sums taken for Purposes and by virtue of this Act shall be considered a Debt due from the Public, and to such Extent as is necessary shall be made good by Parliament accordingly.

Sale of Securities on Chief Registrar's Account.

416. The Lord Chancellor may from Time to Time by Order direct any Securities standing to the Chief Registrar's Account to be sold and the Money arising thereby shall be paid into the Bank of England to that Account.

Income of Three Accounts.

417. The Income arising from Securities for the Time being standing to the Bankruptcy Fund Account, Unclaimed Dividend Account, and Chief Registrar's Account, shall be from Time to Time carried to the Chief Registrar's Account.

Payment of Compensations, &c. out of Annual Votes.
1861, s. 35.
1866, § 45.

418. The Amount of the Compensations payable to the following Holders of abolished Offices,—

Patentee of Bankrupts;
Former Commissioners of Bankrupt;
Clerk of the Hanaper and other Officers of the Lord Chancellor and Court of Chancery;

and Retiring Annuities at the Commencement of this Act payable out of Money standing to the Chief Registrar's Account shall be from Time to Time paid into the Bank of England to that Account by the Commissioners of Her Majesty's Treasury, out of Money provided by Parliament.

Application of Money on Chief Registrar's Account.
1861, ss. 35, 36.
1866, §§ 35, 40, 45.

419. Money standing to the Chief Registrar's Account shall be applicable and shall be from Time to Time applied, under Order of the Lord Chancellor, to Payment of Salaries, Superannuation Allowances, and Retiring and Compensation Annuities under this Act or any former Act relating to Bankruptcy, and of Salaries of Clerks, Ushers, and others employed in the Court of Bankruptcy, and the Offices thereof, and to Payment of Expenses for Stationery, Coals, and Lights for that Court, and the Offices thereof, and of Maintenance,

tenance, Insurance, Rent, and Repair of or Addition to Buildings, and other Expenses incidental to the Execution of this Act, the Account thereof being first audited and allowed by a Judge or Commissioner of the Court.

Salaries of Judges and Officers.

420. The Salaries of the Judges and Officers of the Court of Bankruptcy in London shall be as follows; namely,—

Of the Judges, *Two thousand* Pounds a Year each;

Of the Chief Registrar, *One thousand four hundred* Pounds a Year;

Of the other Registrars, *One thousand two hundred* Pounds a Year each;

Of the Taxing Master, *One thousand four hundred* Pounds a Year.

Salaries of Commissioners and of abolished Officers.

421. The Salaries of the Commissioners of the Country District Courts of Bankruptcy, and of all Officers whose Offices are abolished by or under this Act, shall continue as at the Commencement of this Act as long as they remain in Office.

Salaries of Clerks, &c. 1861, Sched. A. 1866, Sched. B.

422. The subordinate Officers and Clerks in the Offices of the Accountant in Bankruptcy, Chief Registrar and Taxing-Master, the Ushers of the Court of Bankruptcy, and the Clerk and Trainbearer, Ushers, and Assistant Ushers of the Lords Justices of the Court of Appeal in Bankruptcy, shall continue entitled to receive the same Salaries as at the Commencement of this Act, subject to any Power to alter any such Salary for the Time being vested in the Lord Chancellor.

Quarterly Payment of Salaries. 1854, s. 10. 1861, ss. 29, 57.

423. Salaries under this Act shall be paid in equal quarterly Payments, free from Deduction (except for Income Tax), on the *Eleventh* Day of *January*, *April*, *July*, and *October*, with a proportionate Part to the Person entitled to the Salary, or his legal Personal Representatives (as the Case may be), for any broken Quarter, from the Day of his Appointment to the First Quarter Day, or from the last Quarter Day to the Day of the vacating of the Office by Resignation, Death or otherwise.

Retiring Annuities to Judges and Officers. 29 & 30 Vict. c. 68. 1861, s. 33.

424. The Lord Chancellor may, on the Petition of any Judge, Commissioner, or Registrar of the Court of Bankruptcy, or of the Accountant in Bankruptcy, or of the Taxing Master or other Officer of the Court of Bankruptcy appointed before the passing of The Superannuation Act, 1866, order that there be paid to the Petitioner a Retiring Annuity not exceeding *Two Thirds* of his Salary out of the Money standing to the Chief Registrar's Account, provided—

1. That the Petitioner has served in his Office for not less than *Twenty Years*, and is not less than *Sixty-five* Years of Age, or

or was appointed to his Office in or before the Year *One thousand eight hundred and thirty-two*, and is desirous of retiring; or

2. That the Petitioner is afflicted with a permanent Infirmity disabling him from the due Execution of his Office.

Compensation Annuities to Holders of abolished Offices. 1866, § 42.

425. The Commissioners of Her Majesty's Treasury may, on the Petition of the Holder of any Office abolished by this Act, accompanied by a Certificate of the Lord Chancellor to the effect that the Petitioner has duly discharged the Duties of his Office, award to be paid to that Person an Annuity not exceeding of the Salary to which he was entitled in respect of his Office at the Commencement of this Act, but subject to any Enactment then in force applicable to him in case of the Abolition of such Office.

Compensation to Clerks. 1866, § 43.

426. The Commissioners of Her Majesty's Treasury may, on the Petition of any Clerk of an Official Assignee or of any Clerk of any other Person whose Office is abolished by this Act, inquire whether any, and, if any, what Compensation ought to be made to the Petitioner, regard being had to the Conditions on which his Appointment was made, and to the Nature of the Appointment and the Duration of his Service; and if they think that his Claim to Compensation is established, may award to him such Compensation, by Annuity or otherwise, as under the Circumstances of the Case they think just and reasonable.

Acceptance of public Employment by Annuitants. 1849, s. 57. 1861, s. 34. 1866, § 44.

427. If any Person to whom a Compensation Annuity is granted under this Act accepts any public Employment he shall, during the Continuance of such Employment, receive only so much (if any) of his Compensation Annuity as, with the Salary of that Employment, will equal such Compensation Annuity.

Expenses of Registrar attending Meetings, &c. 1861, s. 58. 1866, § 49.

428. Where a Registrar of the Court of Bankruptcy, by the Direction of the Court, attends at any Place for the Purpose of presiding at a Meeting of Creditors, or of receiving Proofs, or of otherwise acting under this Act, his travelling and incidental Expenses incurred in so doing, and those of any Clerk or Officer attending him, shall, after being settled by the Court, be paid out of the Bankrupt's Property, or if the same is insufficient, then out of Money standing to the Chief Registrar's Account.

Fees.

Fees to be fixed by General Orders.

429. Such Fees shall be paid in Bankruptcy and in other Matters under this Act as General Orders from Time to Time direct.

1849, ss. 48–52. 1861, ss. 39–42. 1869, §§ 82–87.

Stamps.

Fees to be collected by Stamps.

430. Fees payable under this Act in the Court of Bankruptcy shall be collected by Stamps, all or any of which shall be impressed or adhesive as General Orders direct.

Documents not properly stamped to be invalid.

431. Any Document which ought to bear a Stamp under this Act shall not be of any Validity unless and until it is properly stamped, but if any such Document is through Mistake or Inadvertence received, filed, or used without being properly stamped, the Court, in which the same is received, filed, or used may, if it thinks fit order that the same be stamped as in such Order is directed, and on it being stamped accordingly the same and every Proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Application of Money received for Stamps.

432. The Commissioners of Inland Revenue shall keep a separate Account of Money received in respect of Stamps under this Act; and, subject to Deduction of Expenses incurred by them in the Execution of this Act, the Money so received shall be carried to the Chief Registrar's Account.

General Orders as to Stamps.

433. General Orders shall make Provision for regulating the Use of Stamps, and particularly for prescribing the Application thereof to Documents from Time to Time in use or required to be used for the Purposes of Stamps, and for insuring the Cancellation of adhesive Stamps, and for keeping Accounts of Stamps.

Exemption of Deeds, &c. from Stamp Duty. 1849, s. 138. 1866, § 88.

434. Every Deed, Conveyance, Assignment, Surrender, Admission, or other Assurance relating solely to Freehold, Leasehold, Copyhold, or Customary Property, or to any Mortgage, Charge, or other Incumbrance on, or any Estate, Right, or Interest in any Real or Personal Property which is Part of the Estate of any Bankrupt, and which after the Execution of such Deed, Conveyance, Assignment, Surrender, or Assurance, either at Law or in Equity, is or remains the Estate of the Bankrupt or of the Trustee under the Bankruptcy, and every Power of Attorney, Proxy Paper, Writ, Order, Certificate, Affidavit, Bond, or other Instrument or Writing relating solely to the Estate of any Bankrupt or to any Proceeding under any Bankruptcy shall be exempt from Stamp Duty (except in respect of Fees under this Act) and from every other Duty.

Part XXIII.—General Orders.

General Orders under Act. 1861, ss. 45–7. 1866, §§ 79, 81.

435. General Orders shall be from Time to Time made under this Act respecting Practice and Procedure, Forms, Fees, Costs, Duties of Officers, the Powers, Duties, and Remuneration of Registrars and High Bailiffs of County Courts, and other Matters requiring Regulation under this Act, and any such General Order may be made at any Time after the passing of this Act.

General Orders for Court of Bankruptcy.

436. General Orders under this Act respecting the Court of Bankruptcy shall be made by the Lord Chancellor with the Advice and Assistance of the Judges of the Court of Bankruptcy in London or any *Two* of them.

General Orders for County Courts.

437. General Orders under this Act for the County Courts shall be made by the Authority for the Time being empowered to make General Orders for the County Courts under the Acts relating thereto.

General Orders respecting Appeals.

438. General Orders under this Act respecting Appeals shall be made by the Lord Chancellor, with the Advice and Assistance of the Lords Justices of the Court of Appeal in Bankruptcy, or One of them.

General Orders altering Practice, &c.

439. General Orders under this Act may alter any Provision of this Act respecting Practice or Procedure, and may vary Provisions of this Act regulating Proceedings in Bankruptcy and other Matters under this Act, in order to adapt them to the Constitution and Circumstances of County Courts; but in any such Case the Orders shall not take effect until the Expiration of *One Month* after they have been laid before both Houses of Parliament.

General Orders respecting Fees, &c.

440. General Orders under this Act, as far as they relate to Fees or to Stamps, or to Receipt and Expenditure of and accounting for Money, shall be made with the Approval of the Commissioners of Her Majesty's Treasury.

Part XXIV.—Temporary Provisions respecting late Insolvent Debtors Court.

Jurisdiction of Insolvent Debtors Court to be in Court of Bankruptcy. 1861, s. 1.

441. The Court of Bankruptcy in London shall have all the Jurisdiction, Powers, and Authorities possessed at the Commencement of The Bankruptcy Act, 1861, by the then existing Court for the Relief of Insolvent Debtors in England (in this Act referred to as the late Insolvent Debtors Court), in relation to all Matters then

pending in that Court, and not completed at the Commencement of this Act.

Jurisdiction of County Courts. 1861, s. 20.

442. All Matters at the Commencement of this Act pending in the County Courts under the Acts for the Relief of Insolvent Debtors shall be continued and completed therein as if this Act had not been passed.

Provision for Duties of Provisional Assignee. 1866, § 36.

443. The Person at the Commencement of this Act holding the Office of Provisional and Official Assignee of the Estates and Effects of Insolvent Debtors shall continue, on the same Terms on which he then holds that Office, to perform the Duties imposed on him by or under The Bankruptcy Act, 1861, or under any other Act. If a Vacancy occurs in that Office the Lord Chancellor may appoint a fit Person to perform the remaining Duties thereof, and the Person so appointed shall have all the Powers and Authorities of the Person who is at the Commencement of this Act the Provisional and Official Assignee; and all Estates and Effects vested in the Provisional and Official Assignee at the Time of the Vacancy shall, by virtue of such Appointment, become vested in the Person so appointed, and so from Time to Time as Occasion requires.

Clerks and Officers of Insolvent Debtors Court. 1861, s. 22.

444. The Clerks and Persons (other than the Provisional and Official Assignee) at the Commencement of this Act discharging Duties connected with the late Insolvent Debtors Court shall continue to discharge the same Duties as at the Commencement of this Act; and every such Clerk and Person shall hold his Appointment during good Behaviour, but may be removed by the Lord Chancellor, by Order, for some sufficient Reason therein stated. If a Vacancy happens in the Place of any such Clerk or Person, the Lord Chancellor may, if he thinks fit, employ a fit Person to discharge the Duties of that Place; and in the event of the Duties of any such Clerk or Person ceasing, he shall, if the Lord Chancellor thinks fit, be appointed to discharge similar Duties in the Court of Bankruptcy in London in case his Services are required in that Behalf.

Salary of Provisional Assignee.

445. The Person who is at the Commencement of this Act the Provisional and Official Assignee shall as long as he remains in Office receive the same Salary, out of the same Funds, and payable in the same Manner, as at the Commencement of this Act.

Salaries of Clerks and Officers of Court. 1861, s. 30.

446. The Clerks and Persons (other than the Provisional and Official Assignee) who under this Act discharge Duties connected with

with the late Insolvent Debtors Court shall as long as they discharge such Duties continue to receive the same Salaries, out of the same Funds, and payable in the same Manner, as at the Commencement of this Act.

Fees in Insolvent Cases.

447. Such Fees shall be payable in respect of Proceedings which originated in the late Insolvent Debtors Court, and are carried on in the Court of Bankruptcy in London, as General Orders from Time to Time direct.

Accounts of Insolvent Debtors Court.

448. All Money and Securities standing at the Commencement of this Act to the Credit of the Account at the Bank of England, intituled The Purposes of the Twenty-sixth Section of The Bankruptcy Act, 1861, Account, shall on the Commencement of this Act be carried by the Governor and Company of the Bank of England, under the Direction of the Lord Chancellor, to an Account to be intituled The Account of the late Insolvent Debtors Court.

Application of Insolvent Debtors CourtFunds. 1861, ss. 26, 30.

449. The Money and Securities for the Time being standing to the Credit of the Account of the late Insolvent Debtors Court shall be subject to the Orders of the Court of Bankruptcy in London for the Payment thereout of any Dividend, or for the Distribution of any Money, in the Matter to which any Part thereof originally belonged, and, subject thereto, shall be applicable in such Manner as the Lord Chancellor from Time to Time by Order directs, either by Appropriation of Income, or by Sale and Application of Proceeds of Capital, towards defraying the Remuneration to be allowed by the Lord Chancellor to the Person for the Time being appointed to perform the remaining Duties of the Office of Provisional and Official Assignee, and the Salaries of the Clerks and Persons who under this Act for the Time being discharge Duties connected with the late Insolvent Debtors Court, and for indemnifying every existing and past Provisional and Official Assignee, and every Person appointed to perform the remaining Duties of the Office of Provisional and Official Assignee, and their respective Estates, against Costs and Expenses incurred or to be incurred in any Action, Suit, or Proceeding; and in case at any Time the Funds standing to the Account of the late Insolvent Debtors Court are insufficient to pay the Salaries in this Section provided for, the same or the Deficiency shall be paid out of the annual Sum provided by Parliament for the Use and Purposes of that Court and of the Officers thereof, which Sum shall be paid into the Bank of England, and shall be carried to the Credit of the Account of the late Insolvent Debtors Court.

 450. Nothing

Saving for Right to Superannuation Allowance, &c. 1861, s. 22.

450. Nothing in this Act shall deprive any Person holding at the Commencement of this Act any Office or Place in the late Insolvent Debtors Court of any Benefit to which at or after the Commencement of this Act he is or may become entitled by virtue of any Act relating to Superannuation Allowances; and the Service of any such Person in the Court of Bankruptcy in London shall, in relation to Superannuation Allowance, Retiring Pension, and Compensation Annuity on Abolition of Office by or under this Act, be equivalent to Service in the late Insolvent Debtors Court.

Transfer of Money of Insolvent Estates.

451. All Money which since the Commencement of The Bankruptcy Act, 1861, has been received on account of the Estates of Insolvent Debtors, and has been paid to the General Account of Bankrupts Estates, shall after the Commencement of this Act be transferred, under the Direction of the Lord Chancellor, to the Account of the late Insolvent Debtors Court.

Unclaimed Dividends in Insolvent Debtors Court.

452. All Dividends unclaimed at or after the Commencement of this Act, and all Money unclaimed the Produce of the Estate of any Insolvent Debtor, shall after the Expiration of *Twelve Months* from the Declaration of the Dividend, or from the Time at which the unclaimed Money came into the Hands of the Provisional and Official Assignee, be paid by the Provisional and Official Assignee into the Bank of England, and shall be carried to the Account of the late Insolvent Debtors Court.

Bankruptcy.

A

B I L L

To consolidate and amend the Acts relati
to Bankruptcy in England.

(Prepared and brought in by
Mr. Attorney General, Mr. Secretary Walpole, and
Mr. Solicitor General).

Ordered, by The House of Commons, *to be Printed,*
14 *March* 1867.

Under 14 *oz.*

[Bill 74.]

Bankruptcy Bill.

[AS AMENDED IN COMMITTEE.]

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1835.—5 & 6 Will. 4. c. 29.—Investment in Securities, &c.
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1849.—12 & 13 Vict. c. 106.—Bankrupt Law Consolidation.
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1856.—19 & 20 Vict. c. 79.—Bankruptcy, Scotland.
1859.—Debtor and Creditor Bill, H.L. (As amended on Report.) 11th March 1859.
1861.—24 & 25 Vict. c. 134.—Bankruptcy and Insolvency.
1866.—Bankruptcy Law Amendment Bill, H.C. (As amended in Committee.) 30th July 1866

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56. Taxation in Country - - - -	1861 s. 14. 1866, § 25.
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63. Powers of Court of Appeal - - - -	1849, s. 13. 14 & 15 Vict. c.83. 1861, ss. 59. 60. 1866, § 12.
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68. Lying in Prison - - - -	1849, s. 69. 1861, s. 71. 1866, § 96.
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73. Trader absenting himself, beginning to keep House, &c.	1849, s. 67. 1861, § 99.
74. Seizure and Sale in Execution of Property of Trader.	1861, s. 73. 1866, § 101.
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Clauses.	Provisions of Acts and Bills.
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115. Petition by Debtor - - - -	1849, s. 101.
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120. Power for Court to order Satisfaction for malicious Petition, &c.	1849, s. 267.
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125. Subsequent Petition against a Member or Members of same Partnership.	1849, s. 98. 1866, § 130.
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Clauses.	Provisions of Acts and Bills.
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Clauses.	Provisions of Acts and Bills.
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165. Trustee's Report on State of Bankrupt's Affairs	1861, s. 143.
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184. Application of Fines and Recoveries Act	1849, s. 208. 1866, § 215.
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Clauses.	Provisions of Acts and Bills.
190. Order of Court for Payment of Amount admitted on Examination.	1849, s. 123. 1866, § 235.
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192. Conveyances, &c. made by Bankrupt while embarrassed	1849, s. 126. 1866, § 237.
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210. Execution of Search Warrant in Place not specified	1849, s. 129.
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Clauses.	Provisions of Acts and Bills.
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222. Non-abatement of Actions, &c. by Change in Trustee	1849, s. 157. 1866, § 252.
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229. Power to mortgage or pledge Bankrupt's Property	1861, s. 133. 1866, § 232.
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231. Disposition of Crop, Manure, &c.	1849, s. 144.
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233. Provision for subsequent Transfers on Discharge of Creditor's Assignee.	
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235. Protection of Payments, &c. without Notice of Act of Bankruptcy.	1849, s. 133. 1866, § 239.
236. Protection of Payments, &c. by Depositees of Bankrupt's Property.	1 Jac. 1. c. 15. s. 14. 56 Geo. 3. c. 137. 6 Geo. 4. c. 16. s. 84.
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244. Proof for Money, &c. enforceable by Process of Contempt	1859, § 108. 1861, s. 149.
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Clauses.	Provisions of Acts and Bills.
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252. Sureties and Persons liable for Debts of Bankrupt -	1849, s. 173. 1866, § 173.
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255. Proof for Costs - - - - -	1849, s. 181. 1866, § 162.
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261. Proof in Court or in Chambers, &c. - - -	1866, s. 146.
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Clauses.	Provisions of Acts and Bills.
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Clauses.	Provisions of Acts and Bills.
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316. Creditors to be determined as in Bankruptcy, except as to 10*l.* Debts paid in full.	
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318. Declaration of complete Execution.	
319. Effect of Declaration of complete Execution.	
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327. Stay of Proceedings at Law.	
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379. Taxation of Charges	1856, s. 125. 1866, § 207.
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444. Application of Money on Court of Bankruptcy Fee Account.	1861, ss. 35, 36. 1866, §§ 35, 40, 45.
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446. Salaries of Commissioners, and of abolished Officers.	
447. Salaries of Clerks, &c. - - - -	1861, Sched. A. 1866, Sched. B.
448. Quarterly Payment of Salaries - - -	1854, s. 10. 1861, ss. 29, 57.
449. Retiring Annuities to Judges and Officers - -	1861, s. 33.
450. Compensation Annuities to Holders of abolished Offices.	1866, § 42.
451. Compensation to Clerks - - - -	1866, § 43.
452. Acceptance of public Employment by Annuitants -	1849, s. 57. 1861, s. 34. 1866, § 44.
453. Expenses of Registrar attending Meetings, &c. -	1861, s. 58. 1866, § 49.
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459. General Orders as to Stamps.	
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A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Consolidate and amend the Acts relating to Bankruptcy in England.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Part I.—Preliminary.

Division of Act.

1. This Act shall be divided into Parts, as follows:

Part I.—Preliminary.
Part II.—Jurisdiction in Bankruptcy; Courts and Officers.
Part III.—Acts of Bankruptcy in general.
Part IV.—Trader-Debtor Summons.
Part V.—Declaration of Insolvency.
Part VI.—Adjudication.
Part VII.—Choice of Trustee and Inspectors.
Part VIII.—Meetings.
Part IX.—Last Examination and Accounts.
Part X.—Order of Discharge.
Part XI.—Consequences of Adjudication with respect to Property.
Part XII.—Possession, Collection, and Management of Estate.

Part XIII.—Proof.
Part XIV.—Dividends; Preferential Payments; Allowances; Surplus.
Part XV.—Control of Trustee; Audit; Release.
Part XVI.—Transfer out of Bankruptcy.
Part XVII.—Change from Bankruptcy to Arrangement.
Part XVIII.—Arrangement by Deed.
Part XIX.—After-acquired Property in Bankruptcy and Arrangement.
Part XX.—Misdemeanours in Bankruptcy and Arrangement.
Part XXI.—Miscellaneous Provisions respecting Bankruptcy and Arrangement.
Part XXII.—Funds of Court of Bankruptcy; Salaries; Annuities; Fees; Stamps.
Part XXIII.—General Orders.
Part XXIV.—Temporary Provisions respecting Insolvent Debtors.

Short Title.

2. This Act may be cited as The Bankruptcy Act, 1867.

Commencement.

3. Except as in this Act expressly otherwise provided, this Act shall take effect from and immediately after the 31st Day of December 1867 (which Time is in this Act referred to as the Commencement of this Act).

Extent of Act.

4. Except as in this Act expressly otherwise provided, this Act shall not extend to Scotland or Ireland.

Application of Act to future Bankruptcies.

1849, s. 4. 1866, §§ 2, 4, 5.

5. The Provisions of this Act relating to Bankruptcy shall have effect only in Cases where Adjudication of Bankruptcy is made after the Commencement of this Act; but every Trading, Act of Bankruptcy, Petitioning Creditor's Debt, or other Thing, existing or done before the Commencement of this Act, which, if it had existed or been done after the Commencement of this Act, would have authorized Proceedings in Bankruptcy or have supported Adjudication of Bankruptcy, shall be sufficient to authorize Proceedings in Bankruptcy and to support Adjudication of Bankruptcy under this Act; and any Proceedings by Trader-Debtor Summons, Petition, or otherwise, taken with a view to obtain Adjudication of Bankruptcy and pending at the Commencement of this Act, which if they had been instituted after the Commencement of this Act would have supported Adjudication of Bankruptcy, shall have the like Validity, Effects, and Consequences as if they had been so instituted.

6. The

6. The following Classes of Persons shall, for the Purposes of this Act, be deemed Traders: Definition of Traders. 1849, s. 65. 1866, § 326.

Alum Makers, Apothecaries, Auctioneers, Bankers, Bleachers, Brokers, Brickmakers, Builders, Calenderers, Carpenters, Carriers, Cattle or Sheep Salesmen, Coach Proprietors, Cowkeepers, Dyers, Fullers, Keepers of Inns, Taverns, Hotels, or Coffee Houses, Limeburners, Livery Stable Keepers, Market Gardeners, Millers, Packers, Printers, Shipowners, Shipwrights, Victuallers, Warehousemen, Wharfingers, Persons using the Trade or Profession of a Scrivener, receiving other Men's Moneys or Estates into their Trust or Custody, Persons insuring Ships or their Freight or other Matters against Perils of the Sea, Persons using the Trade of Merchandise by way of Bargaining, Exchange, Bartering, Commission, Consignment, or otherwise, in Gross or by Retail, and Persons who, either for themselves or as Agents or Factors for others, seek their Living by buying and selling, or by buying and letting for Hire, or by the Workmanship or the Conversion of Goods or Commodities, whether such Persons have Privilege of Parliament or not:

But a Farmer, Grazier, Common Labourer, or Workman for Hire, Receiver-General of Taxes, or Member of or Subscriber to an incorporated Commercial or Trading Company established by Charter or by or under Act of Parliament (by Registration or otherwise), shall not be deemed as such a Trader for the Purposes of this Act.

7. Where under this Act any Sum is required to be paid to a Creditor or other Person, the securing or compounding to the Satisfaction of the Creditor or other Person of or for such Sum shall be deemed Payment thereof for Purposes of this Act. Securing, &c. equal to Payment.

8. Where by this Act any limited Time from or after any Date or Event is appointed or allowed for the doing of any Act or the taking of any Proceeding, then in the Computation of such limited Time the same shall be taken as exclusive of the Day of such Date or of the happening of such Event, and as commencing at the beginning of the next following Day; and the Act or Proceeding shall be done or taken at latest on the last Day of such limited Time according to such Computation, unless such last Day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a Day appointed for Public Fast, Humiliation, or Thanksgiving, in which Case any Act or Proceeding shall be considered as done or taken in due Time if it is done or taken on the next Day afterwards, not being one of the Days in this Section specified. Computation of Time. 1849, s. 276. 1861, s. 229. 1866, § 326.

Where by this Act any Act or Proceeding is directed to be done or taken on a certain Day, then if that Day happens to be one of the Days in this Section specified, such Act or Proceeding shall be considered as done or taken in due Time if it is done or taken on the next Day afterwards, not being one of the Days in this Section specified.

Interpretation.

9. In this Act—

The Term "County Court" means a County Court holden by virtue of the Act of the Session of the Ninth and Tenth Years of Her Majesty's Reign (Chapter Ninety-five) "for the more easy "Recovery of Small Debts and Demands in England":

9 & 10 Vict. c. 95.

The Term "the Court," except where it is expressly otherwise interpreted, means the Court wherein the Matter or Proceeding is pending or is to be taken to which the Provision wherein that Term is used relates:

The London Gazette is referred to as the Gazette, and Publication in the Gazette is referred to as gazetting:

The Term "Person" includes a Corporation aggregate or sole, unless there is something in the Subject or Context inconsistent with that Meaning:

The Term "British Dominions" means the United Kingdom, Channel Islands, and Isle of Man, and all Colonies, Plantations, Settlements, Islands, and Territories within Her Majesty's Dominions out of the United Kingdom, including India, and also any Territory governed by any Charter or Licence from the Crown or Parliament of the United Kingdom.

City Small Debts Court.

10. The Court held under The London (City) Small Debts Extension Act, 1852, shall be deemed a County Court within the Meaning of this Act.

Part II.—Jurisdiction in Bankruptcy; Courts and Officers.

Distribution of Jurisdiction.

Jurisdiction in Bankruptcy.

11. The Court of Bankruptcy in London shall have throughout England, and the Country District Courts of Bankruptcy (until their Discontinuance by virtue of this Act) shall also have within their respective Districts, and the County Courts shall also have within their respective Districts, Jurisdiction in Bankruptcy and for the other Purposes of this Act.

12. The

12. The Court of Appeal in Chancery, as constituted and regulated by the Enactments relating to that Court, shall be the Court of Appeal in Bankruptcy. Court of Appeal. 14 & 15 Vict. c. 83. s. 7. 1866, § 12.

13. A Decision or Order of the Court of Appeal shall, if that Court considers the Matter of sufficient Difficulty or Importance to require the Decision of the House of Lords (but not otherwise), be subject to Appeal to the House of Lords on Matter of Law or Equity or on the Rejection or Admission of Evidence. Appeal to House of Lords. 1849, s. 18. 14 & 15 Vict. c. 83. s. 10. 1866, § 13.

Courts and Officers.

1. Court of Bankruptcy in London.

14. The Court of Bankruptcy in London shall comprise the following Judges and Officers,—namely, Judges not exceeding Three in Number, Registrars not exceeding Eight in Number, an Accountant in Bankruptcy (in this Act referred to as the Accountant), One Taxing Master, One Assistant Taxing Master, Provisional Trustees not exceeding Three in Number, and Messengers not exceeding Three in Number. Establishment of Court in London.

15. The Persons who are at the Commencement of this Act Commissioners, Chief Registrar and other Registrars, Accountant, and Master of the Court of Bankruptcy for the London District, shall in the first instance be the Judges, Chief Registrar and other Registrars, Accountant, and Taxing Master respectively of the Court of Bankruptcy in London; and the Person who was formerly the Taxing Officer of the Court for Relief of Insolvent Debtors (in this Act referred to as the late Insolvent Debtors Court) shall in the first instance be the Assistant Taxing Master of the Court of Bankruptcy in London. First Judges, &c. of Court.

16. The Judges shall hold Office during good Behaviour; but any Judge may be removed by Her Majesty, Her Heirs or Successors, on an Address from both Houses of Parliament. Tenure of Office of Judges.

17. When a Vacancy happens in the Office of Judge, it shall be lawful for Her Majesty, Her Heirs or Successors, by Letters Patent under the Great Seal of the United Kingdom, to appoint to fill the Vacancy a fit Person, to be selected in the first instance from among the Commissioners of the Country District Courts of Bankruptcy, and in default of any such Person, then a fit Person being or having been a Serjeant or Barrister of not less than Ten Years Standing. Appointment of Judges. 1866, § 15.

Tenure of Office of Registrars, &c. 1831, s. 9. 1854, s. 3. 1861, s. 8. 1866, § 16.

18. The Registrars, Accountant, Taxing Master, Assistant Taxing Master, Provisional Trustees, and Messengers shall hold Office during good Behaviour; but any of those Officers may be removed by the Lord Chancellor by Order, for some sufficient Reason therein stated.

Appointment of Registrars. 15 & 16 Vict. c. 77. s. 3. 1866, § 16.

19. When a Vacancy happens in the Office of Registrar the Lord Chancellor shall appoint to fill the Vacancy a fit Person, to be selected in the first instance from among the Registrars of the Country District Courts of Bankruptcy, and in default of any such Person, then a fit Person being or having been a Barrister or Special Pleader of not less than Five Years Standing; and when a Vacancy happens in the Office of Chief Registrar the Lord Chancellor shall appoint One of the Registrars to fill the Vacancy.

Appointment of Accountant. 1835, s. 3.

20. When a Vacancy happens in the Office of Accountant the Lord Chancellor shall appoint to fill the Vacancy a fit Person experienced in Mercantile Accounts and conversant with Bookkeeping.

Appointment of Taxing Master, &c. 1844, s. 45. 1866, § 23.

21. When a Vacancy happens in the Office of Taxing Master or Assistant Taxing Master the Lord Chancellor shall appoint a fit Person to fill the Vacancy being or having been a Registrar of the Court of Bankruptcy, or being or having been a Barrister or Special Pleader of not less than Five Years Standing, or being an Attorney or Solicitor of not less than Five Years Standing and in actual Practice, or as regards the Office of Taxing Master being or having been Assistant Taxing Master.

Appointment of Provisional Trustees.

22. The Persons who are at the Commencement of this Act the Official Assignees of the Court of Bankruptcy for the London District, other than the Person who holds the Office of Provisional and Official Assignee of the Estates of Insolvent Debtors, shall be the Provisional Trustees of the Court of Bankruptcy in London; and when a Vacancy happens in the Office of Provisional Trustee, the Lord Chancellor shall appoint a fit Person to fill the Vacancy.

Appointment of Messengers.

23. Three of the Persons (if more than Three) who are at the Commencement of this Act Messengers of the Court of Bankruptcy for the London District shall be appointed by the Lord Chancellor the Messengers of the Court of Bankruptcy in London, which Appointment may be made before, to take effect on, the Commencement of this Act; and on the Commencement of this Act the Office of Messenger (if any) then held by any other Person in that Court shall be by virtue of this Act abolished; and when a Vacancy happens in the Office of Messenger the Lord Chancellor shall appoint a fit Person to fill the Vacancy.

24. Pro-

24. Provided, with respect to Provisional Trustees and Messengers, that a Vacancy in the Office shall not at any Time be filled except on an Application of the Judges of the Court of Bankruptcy in London to the Lord Chancellor stating to the Effect that the Duties of the Office cannot be properly performed unless the Vacancy is filled, and a Certificate of the Lord Chancellor certifying his Concurrence in such Statement after due Inquiry in that Behalf. Restriction on Appointment of Provisional Trustees and Messengers.

25. The Office of Registrar of Meetings shall be continued as at the Commencement of this Act; but when a Vacancy thereafter happens therein the same shall not be filled, and thenceforth such of the Duties of that Office as are directed by the Lord Chancellor to be continued shall be discharged by the Chief Registrar. Registrar of Meetings.

2. Country District Courts of Bankruptcy.

26. In and for the Country Districts into which England is at the Commencement of this Act divided for Purposes of Bankruptcy, the Court of Bankruptcy shall comprise (in addition to the Court of Bankruptcy in London) the Persons who are at the Commencement of this Act the Commissioners, Registrars, Official Assignees, and Messengers of the several Country District Courts of Bankruptcy, as long only as those several Commissioners remain in Office; and those Commissioners, Registrars, Official Assignees, and Messengers shall respectively hold Office during good Behaviour, but any Commissioner may be removed by Her Majesty, Her Heirs or Successors, on an Address from both Houses of Parliament, and any Registrar, Official Assignee, or Messenger may be removed by the Lord Chancellor by Order, for some sufficient Reason therein stated. Power to attach Commissioners to Districts, and to order Sittings at Places, &c. 1849, s. 11.

27. The Lord Chancellor may from Time to Time attach any Commissioner or Registrar of the Court of Bankruptcy acting in the Country to such District as he thinks fit; and if and whenever it appears to him expedient may order any such Commissioner to hold Sittings at such Places within his District as the Lord Chancellor thinks fit, and may give all necessary Directions in that Behalf; and unless and until the Lord Chancellor after the Commencement of this Act otherwise directs, the Sittings of such Commissioners shall continue to be held at the Places at which they are held at the Commencement of this Act. Establishments of Country District Courts of Bankruptcy.

28. A Vacancy in the Office of any such Commissioner by Death, Resignation, or otherwise shall not be filled, and thereupon that Country District Court in which he presided shall be deemed to be discontinued. Vacancies not to be filled.

Provisional Trustee in Country Districts.

29. During the Continuance of every such Court, the Person or Persons who is or are at the Commencement of this Act the Official Assignee or Assignees of the Court shall be the Provisional Trustee or Trustees of the Court.

Provision for Vacancies.

30. If a Vacancy in the Office of Registrar, Provisional Trustee, or Messenger of any such Court happens during the Continuance of the Court, it shall not be filled, but the Lord Chancellor may, if it appears to him requisite for the due Conduct of the Business of the Court, appoint a fit Person to act as Registrar, Provisional Trustee, or Messenger during the Continuance of the Court, who respectively shall have and discharge the Powers and Authorities, Rights and Duties of a Registrar, Provisional Trustee, or Messenger, and shall receive such Remuneration as the Lord Chancellor directs out of Money standing to the Court of Bankruptcy Fee Account, at a Rate not exceeding that of the Remuneration of the Officer in whose Stead he is appointed.

Disposal of Business and Abolition of Offices.

31. Such Part of the Business pending in a Country District Court at its Discontinuance as the Lord Chancellor thinks fit shall be disposed of by the Registrar and Officers of that Court, and the Residue thereof shall be transferred to the Court of Bankruptcy in London, or to a County Court or County Courts, as the Lord Chancellor, by Order before or after the Discontinuance, thinks fit to direct; and on the Business of such Court being so disposed of or transferred (which shall be ascertained by a Certificate of the Chief Registrar) the Offices of the Registrar, Provisional Trustee, Messenger, and Usher of such Country District Court shall be by virtue of this Act abolished.

3. County Courts.

Provisional Trustee in County Court.

32. The Registrar of each County Court shall be the Provisional Trustee of that Court.

Messenger in County Court.
1861, s. 11.

33. The High Bailiff of each County Court shall discharge the Duties of Messenger in Matters of Bankruptcy in that Court.

Powers and Duties of Courts and Officers.

Powers, &c. of Court of Bankruptcy.
1849, s. 6.
1861, s. 1.
1866, § 6.

34. The Court of Bankruptcy and the County Courts shall for all Purposes of this Act be Courts of Law and Equity and Courts of Record, and shall have and exercise all the Powers and Authorities of the Superior Courts of Law and Equity; and Orders of the Court of Bankruptcy and of the County Courts shall be enforceable by their respective Officers by any Process by which Orders of any of those Superior Courts are enforceable.

35. Each

35. Each Judge and Commissioner of the Court of Bankruptcy shall, subject to the Provisions of this Act, have all the Jurisdiction, Powers, and Rights of the Court; and any Judge of a County Court may, subject to General Orders, act for a Judge of any other County Court.

Each Judge, &c. to form Court; Powers of County Court Judges. 1849, s. 6.

36. The Judges of the Court of Bankruptcy in London, or any Two of them, may from Time to Time sit together as General Orders direct, and, subject thereto, as they think fit, and hear and determine Matters in Bankruptcy and other Matters under this Act.

Power for Judges to sit together.

37. The Court of Bankruptcy in London may direct any Issue of Fact arising therein to be tried by a Jury, before One of the Judges thereof, and may issue Process to compel the Attendance of Jurors and Witnesses.

Trial of Issue by Jury.

38. Section Eighteen of the Act of the Session of the First and Second Years of Her Majesty's Reign (Chapter One hundred and ten), "for abolishing Arrest on Mesne Process in Civil Actions, "except in certain Cases; for extending the Remedies of Creditors "against the Property of Debtors; and for amending the Laws for "the Relief of Insolvent Debtors in England," as far as the same relates to Orders and Powers of the Lord Chancellor or of the Court of Review in Matters of Bankruptcy, and all Provisions in that Act relative thereto, and all subsequent Enactments in force at the Commencement of this Act relative thereto or to the Registration of those Orders, shall be read and have effect as if the Court of Bankruptcy and the Court of Appeal in Bankruptcy had been mentioned in the said Section Eighteen in lieu of the Court of Review.

Orders in Bankruptcy to have effect of Judgments. 1 & 2 Vict. c. 110. s. 18. 27 & 28 Vict. c. 112. 1849, s. 248. 18 & 19 Vict. c. 15. s. 10. 1861, ss. 213, 214. 27 & 28 Vict. c. 112. s. 2. 1866, §§ 12. 58.

39. The Court of Bankruptcy and any County Court may award such Costs as the Court thinks fit, and Costs so awarded shall be recoverable as Costs awarded by a Rule of any of the Superior Courts, and the like Remedies may be had on an Order under this Act for Costs as on any such Rule.

Order for Costs. 1861, s. 213. 1866, § 58.

40. The Court of Bankruptcy and the County Courts shall be auxiliary to each other for all Purposes of this Act in such Manner as General Orders direct.

Courts to be auxiliary. 1849, s. 21. 1861, s. 220. 1866, § 70.

41. Where an Application under this Act is required or authorized to be made to a County Court, and the County Court is not sitting, and the Registrar of that Court is not empowered to entertain the Application, the same shall or may be made to the

Applications when County Courts not sitting.

Court of Bankruptcy in London, and the Order of that Court thereon shall have the same Validity and Effect as if the Proceedings were pending in that Court.

Power for Registrar to act for Judge or Commissioner.
1849, s. 27.
1866, § 21.

42. Any Registrar of the Court of Bankruptcy, during Vacation or during the Illness or Absence from any reasonable Cause of any Judge or Commissioner thereof, shall be capable of acting for such Judge or Commissioner with all the Jurisdiction, Power, and Authority of such Judge or Commissioner.

County Court Registrars.
1861, s. 10.
1866, § 19.

43. The Registrar of a County Court, in Matters within the Jurisdiction of the Court, shall discharge the like Duties and have the like Powers and Authorities as are by this Act imposed and conferred on a Registrar of the Court of Bankruptcy, except in Cases where a Registrar of the Court of Bankruptcy is acting for a Judge or Commissioner thereof.

Power for Registrars to act for each other, &c.
1849, s. 30.
1854, s. 7.

44. Any Registrar of the Court of Bankruptcy shall be capable of acting for the Chief or any other Registrar thereof or for the Taxing Master; and any County Court Registrar shall be capable of acting for any other County Court Registrar.

Substitute in Illness, &c. of Registrar.
1854, ss. 7, 8.
1866, § 22.

45. Where a Registrar of the Court of Bankruptcy is temporarily hindered from discharging his Duty by Illness or unavoidable Absence, the Lord Chancellor may, if he thinks fit, appoint a fit Person to act in the Stead of such Registrar, and the Person so appointed shall have and discharge all the Powers and Duties of such Registrar, and shall receive such Remuneration as the Lord Chancellor directs out of the Money standing to the Court of Bankruptcy Fee Account.

Seal of Court of Bankruptcy.
1849, s. 29.

46. The Chief Registrar shall provide a Seal for himself and each of the other Registrars of the Court of Bankruptcy, on which shall be engraven the Style of the Court; and such Seals shall be kept by the Registrars in trust for the Purposes of the Court, and each thereof shall be the Seal of the Court; and the Seals in use at the Commencement of this Act may be continued in use.

Sittings of Court.
1861, ss. 48, 49.
1866, § 46.

47. The Court of Bankruptcy in London and in each Country District (during the Continuance thereof) shall sit daily, except on Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, and Days appointed for Public Fast, Humiliation, or Thanksgiving, and other Days from Time to Time notified by Order of the Lord Chancellor in the Gazette, save that in Vacations of the Court of Chancery the Lord Chancellor may by Order regulate the

the Sittings and appoint the Attendance of Judges, Commissioners, Registrars, and other Officers necessary for due Administration of Justice, and so that the Business of Adjudication and the issuing of Summonses and other Process be at such Times provided for.

Judges of Court of Bankruptcy to sit at Chambers. 1859, §§ 150–155. 1861, ss. 51, 52. 1866, §§ 47, 48.

48. The Judges and Commissioners of the Court of Bankruptcy shall sit at Chambers for the Despatch of such Part of the Business of the Court as General Orders direct, and, subject thereto, as each Judge or Commissioner thinks fit.

Jurisdiction in Chambers.

49. A Judge or Commissioner sitting in Court may, if he thinks fit, adjourn any Matter for Consideration at Chambers, and vice versâ.

A Judge or Commissioner sitting at Chambers shall have the same Power and Jurisdiction as when sitting in Court.

A Judge or Commissioner may discharge or vary at Chambers or in Court any Order made by him at Chambers.

Registrars to attend Judge at Chambers.

50. A Registrar of the Court of Bankruptcy shall attend and assist a Judge or Commissioner at Chambers as in Court, as the Judge or Commissioner directs.

Sittings of Registrars at Chambers. 1861, s. 52.

51. A Registrar of the Court of Bankruptcy shall sit at Chambers for Despatch of such Part of the Business of the Court as General Orders direct, and, subject thereto, as a Judge or Commissioner from Time to Time directs, and while so sitting shall have the same Power and Jurisdiction as a Judge or Commissioner of the Court at Chambers would have, and an Order made by him shall be an Order of the Court; but a Registrar at Chambers shall not commit any Person to Prison, or hear a disputed Adjudication, or any Application respecting an Order of Discharge.

Application to Judge as to Order of Registrar.

52. Any Party shall be at liberty to take the Opinion of a Judge or Commissioner on any Point or Matter arising in Proceedings before a Registrar at Chambers, and an Order made by a Registrar at Chambers may be discharged or varied by a Judge or Commissioner at Chambers or in Court.

Summons at Chambers.

53. Proceedings at Chambers shall be on Summons.

Duties of Accountant.

54. The Accountant, in addition to discharging the Duties belonging to his Office at the Commencement of this Act or such of them as General Orders direct, shall discharge such Duties in relation to the Audit of the Transactions respecting Bankrupts Estates and the Accounts of Trustees as General Orders direct.

 55. In

Duty of Taxing Master and Assistant.
1861, s. 13.
1866. § 24.

55. The Taxing Master and Assistant Taxing Master shall tax Bills of Costs, Charges, Fees, and Disbursements of Solicitors, Attorneys, Accountants, Auctioneers, Valuers, and others employed in Matters under this Act in the Court of Bankruptcy in London and in the Court of Appeal, and taxable Bills referred to the Taxing Master by a Commissioner of a Country District Court or Judge of a County Court, subject to Review by the Court of Bankruptcy in London.

Taxation in Country.
1861, s. 14.
1866, § 25.

56. In every Country District Court and County Court the Registrar shall tax Bills of Costs, Charges, Fees, and Disbursements of Solicitors, Attorneys, Accountants, Auctioneers, Valuers, and others employed in Matters under this Act before that Court (unless that Court otherwise directs), subject to Review by that Court.

Reference from Country to Taxing Master
1861 s. 14.
1866, § 25.

57. The Commissioner of a Country District Court or Judge of a County Court may refer any taxable Bill or any Question thereon to the Taxing Master.

Administration of Oaths.

58. The Registrars, Taxing Master, and Assistant Taxing Master of the Court of Bankruptcy may administer Oaths and take Affidavits or Declarations in Matters of Bankruptcy and other Matters under this Act.

Security, &c. of Provisional Trustees.
1849, ss. 38. 44.
1854, s. 11.

59. The Provisional Trustees shall act in such Manner, give such Security, and receive such Remuneration, partly by Salary and partly by Fees, Per-centages, or Allowances, as the Lord Chancellor, with the Concurrence of the Commissioners of Her Majesty's Treasury, from Time to Time directs.

Duties, &c. of Messengers.

60. The Messengers shall act in such Manner, give such Security, and receive such Remuneration, partly by Salary and partly by Fees, Per-centages, or Allowances, as the Lord Chancellor, with the Concurrence of the Commissioners of Her Majesty's Treasury, from Time to Time directs.

Solicitors.
1849, s. 247.
1861, s. 21.
1866, § 257.

61. Every Solicitor of the Court of Chancery shall be and may practise as a Solicitor of and in the Court of Bankruptcy, and in Matters before the Judges, Commissioners, or Registrars, in Court or in Chambers, may appear and be heard without being required to employ Counsel; and if any Person not being such a Solicitor practises in the Court of Bankruptcy as a Solicitor he shall be deemed guilty of a Contempt of the Court.

Restriction on Registrar &c., acting as Solicitor.
1866, § 57.

62. A Registrar or other Officer of a County Court shall not either by himself or by his Partner be directly or indirectly engaged as

as Solicitor, Attorney, or Agent for any Party in any Proceeding under this Act in the Court of which he is Registrar or Officer, or in the Court of Appeal on an Appeal from that Court.

Appeal.

Powers of Court of Appeal. 1849, s. 13. 14 & 15 Vict. c. 83. 1861, ss. 59. 60. 1866, § 12.

63. The Court of Appeal in Bankruptcy as such shall be and form a Court of Record, and shall have all the Jurisdiction, Powers, and Authorities of the Court of Bankruptcy (to be exerciseable either originally or on Appeal), and shall have all the Powers and Authorities of the Court of Chancery relative to the Trial of Questions of Fact by Jury, Issue, or otherwise.

Appeal subject to General Orders. 1849, ss. 12, 17. 1861, s. 66. 1866, §§ 76, 77.

64. Except as in this Act expressly otherwise provided, an Appeal shall lie to the Court of Appeal in Bankruptcy from any Order or Decision of the Court of Bankruptcy, or of a County Court under this Act, subject to such Provisions respecting Notice of Appeal, Deposit or other Security for Costs, Procedure, Evidence, and other Matters as General Orders direct.

Time for Appeal.

65. The Time for Appeal to the Court of Appeal shall be limited to Twenty-one Days from the Date of the Decision or Order to be appealed from; but the Court of Appeal may, if it thinks fit, allow an Appeal to be commenced and prosecuted, notwithstanding the Expiration of that Time.

PART III.—ACTS OF BANKRUPTCY IN GENERAL.

Nonpayment of Judgment Debt after Summons. 1859, § 47. 1861, ss. 83, 84. 1866, § 126.

66. If any Person fails for Seven Days after the Time limited for his Appearance to a Judgment Debtor Summons to pay the Amount of the Judgment Debt or Demand and Costs, he shall be deemed to have committed an Act of Bankruptcy at the Expiration of the Time so limited.

Going or remaining abroad, fraudulent Conveyance with Intent, &c. 1849, s. 67. 1861, s. 70. 1866, § 95.

67. If any Person, with Intent to defeat or delay his Creditors, does any of the following Things; namely,—departs out of England, —or being out of England remains out of England,—or makes or causes to be made in England or elsewhere a fraudulent Conveyance, Surrender, Gift, Delivery, or Transfer of all or Part of his Property,—he shall be deemed to have thereby committed an Act of Bankruptcy.

Lying in Prison.

68. If any Person on Arrest or Commitment to Prison for Debt, or under Attachment for Nonpayment of Money, or on Detention for

1849, s. 69. 1861, s. 71. 1866, § 96.

for Debt, remains in Custody or in Prison for One Month,—or on Arrest or Commitment to Prison for any Cause remains in Custody or in Prison for One Month after a Detainer for Debt lodged against him and not discharged,—he shall be deemed to have thereby committed an Act of Bankruptcy.

Escaping out of Custody or Prison.

1849, s. 69. 1861, s. 71. 1866, § 96.

69. If any Person arrested, committed, or detained for Debt, or under Attachment for Nonpayment of Money, escapes out of Custody or Prison, he shall be deemed to have committed an Act of Bankruptcy at the Time of the Arrest, Commitment, or Detention.

Compounding with petitioning Creditor.

1849, s. 71. 1866, § 100.

70. If any Person after the filing of a Petition for Adjudication of Bankruptcy against him by a Creditor pays, gives, or delivers to that Creditor Money or any Satisfaction or Security for his Debt or any Part thereof, whereby he may receive more than other Creditors, he shall be deemed to have thereby committed an Act of Bankruptcy.

Petition by Debtor against himself out of England.

1849, s. 75. 1861, s. 75. 1866, § 98.

71. If any Person petitions a British Court out of England, having Jurisdiction in Bankruptcy or Insolvency, or for the Relief of Insolvent Debtors, praying Adjudication of Bankruptcy against himself, or Relief as an Insolvent Debtor, he shall be deemed to have thereby committed an Act of Bankruptcy, which shall have the same Effect for the Purposes of this Act as if it had been committed in England.

Adjudication against Debtor out of England.

1861, s. 75. 1866, § 98.

72. If, in a British Court out of England, having Jurisdiction in Bankruptcy or Insolvency, or for the Relief of Insolvent Debtors, a Petition for Adjudication of Bankruptcy or Insolvency, or to the like Effect, is filed by a Creditor against any Person, and such Adjudication is made thereon, the Debtor shall be deemed to have committed an Act of Bankruptcy at the Time of that Adjudication, which Act of Bankruptcy shall have the same Effect, for the Purposes of this Act, as if it had been committed in England.

Trader absenting himself, beginning to keep House, &c.

1849, s. 67. 1861, § 99.

73. If a Trader, with Intent to defeat or delay his Creditors, does any of the following Things; namely,—departs from his Dwelling House, or otherwise absents himself,—or begins to keep his House,—or suffers himself to be arrested or taken in Execution for any Debt not due,—or yields himself to Prison,—or suffers himself to be outlawed,—or procures himself to be arrested or taken in Execution,—or procures his Personal Property or any Part thereof to be attached, sequestered, or taken in Execution,—he shall be deemed to have thereby committed an Act of Bankruptcy.

74. If

Seisure and Sale in Execution of Property of Trader.
1861, s. 73.
1866, § 101.

74. If Execution of a Judgment, Decree, or Order against a Trader is levied by Seisure and Sale of his Personal Property, or of any Part thereof, he shall be deemed to have committed an Act of Bankruptcy at the Time of the Seisure.

Trader having Privilege of Parliament not entering Appearance to Action within Month, &c.
1849, s. 77.

75. If a Person alleging himself to be a Creditor, to an Amount sufficient to support a Petition for Adjudication, of a Trader having Privilege of Parliament, files an Affidavit in One of the Superior Courts of Law, to the effect that the Debt is justly due to him, and that the Debtor is to the best of his Belief a Trader, and sues out of the same Court a Summons against the Debtor, and serves him personally with a Copy thereof, and the Debtor does not within One Month after such Service either pay the Debt, or cause an Appearance to be entered in an Action brought for the Recovery of the Debt, and enter into a Bond, in such Sum and with such Two sufficient Sureties as a Judge of One of the Superior Courts approves, to pay the Amount to be recovered in that Action, with any Costs to be given therein, then and in every such Case the Debtor so summoned shall be deemed to have committed an Act of Bankruptcy from the Time of the Service of the Summons.

1849, ss. 78–86.
1866, §§ 102–108.

Part IV.—Trader-Debtor Summons.

Notice to Trader and Affidavit of Debt.

76. Any Creditor of a Trader may deliver to the Debtor personally, or to some adult Inmate at his usual or last known Place of Abode or Business, an Account in Writing of the Particulars of his (the Creditor's) Demand, with a Notice subjoined requiring immediate Payment of the Amount thereof, and may file an Affidavit of the Truth of the Debt and of the Debtor being a Trader, in the following Court, at the Option of the Creditor, namely,—

(1.) In the County Court having Jurisdiction in the Place where the Debtor resides or carries on Business; or,

(2.) During the Continuance of the Country District Court of Bankruptcy (if any) having Jurisdiction in the Place aforesaid, in that District Court; or,

(3.) In the Court of Bankruptcy in London.

And in this Part of this Act the Court in which the Affidavit is filed is referred to as the Court.

Summons to Trader.

77. The Court may thereupon issue a Summons requiring the Debtor to appear before the Court, and stating the Purpose for which he is summoned (which Summons is in this Act referred to as a Trader-Debtor Summons).

A Trader-Debtor Summons shall be served on the Debtor against whom it is issued, personally, unless in any Case the Court issuing it thinks fit to direct that Service in some other Manner shall be good Service.

Return of Summons in other Court.

78. The Summons may be made returnable in the Discretion of the Court out of which it issues in any Court having Jurisdiction in Bankruptcy at the Place where the Debtor resides or carries on Business, or in any other Court having Jurisdiction in Bankruptcy wherein it appears to the Court out of which the Summons issues, regard being had to the Circumstances of the Case, that the Proceedings under the Summons can be most beneficially and conveniently prosecuted.

Costs of Proceedings vexatiously taken.

79. If in any Case it appears to the Court in which the Summons is returned that the Summons has been obtained from, or (at the Instance of the Creditor) made returnable in, a Court other than that in which the Proceedings thereunder can be most beneficially and conveniently prosecuted, and that the same has been done by the Creditor vexatiously, the Creditor shall be liable to pay the Costs, Charges, and Expenses of the Debtor in relation to the Summons unless the Court otherwise directs.

Transfer of Proceedings under Summons.

80. If in any Case the Court in which the Summons is returned is satisfied, regard being had to the Residence of the Debtor or of his principal Creditors, or other Circumstances, that the Proceedings under the Summons would be more beneficially and conveniently prosecuted in another Court, the Court may by Order (stating the Grounds thereof) transfer the Proceedings to that other Court; and an Appeal shall not lie against such Order; and the Court to which the Transfer is made shall have Jurisdiction under the Summons; and all Orders, Affidavits, and Proceedings made, used, or taken thereunder before the Transfer shall have the like Effect as if they had originally been Orders, Affidavits, and Proceedings of and in the Court to which the Transfer is made.

Non-appearance of Trader.

81. If the Debtor does not appear according to the Summons (unless he is prevented from so doing by some Impediment allowed by the Court, or unless the Summons is by Consent or for other good Cause discharged by the Court) the Debtor shall be deemed to have committed an Act of Bankruptcy at the End of Seven Days from the Service of the Summons, unless in the meantime he pays the Amount of the Demand.

Requisition by Court on Appearance of Trader.

82. If the Debtor appears according to the Summons, he shall be at liberty to dispute the alleged Trading, and the Interest of the alleged

alleged Creditor in the Demand, or either of those Matters; and for the Purpose of the Determination of those Matters or either of them the Debtor and Creditor may be examined and may adduce Evidence; and the Court, unless such Trading or Interest is disproved to its Satisfaction, shall thereupon require the Trader to state whether he admits or denies the Demand, or any and what Part thereof.

Admission of whole Demand.

83. If the Trader admits the whole Demand the Court shall require him to sign an Admission in Writing of the whole Demand; and he shall be deemed to have committed an Act of Bankruptcy at the End of Seven Days from the signing of such Admission, unless in the meantime he pays the whole Amount of the Demand.

Denial of whole Demand.

84. If the Trader denies the whole Demand the Court shall require him to sign a Declaration in Writing, to the Effect that he has, to the best of his Judgment and Belief, a good Defence on the Merits to the whole Demand; and if he fails to make such a Declaration, he shall be deemed to have committed an Act of Bankruptcy at the End of Seven Days from the Service of the Summons, unless in the meantime, or within such enlarged Time (if any) as the Court allows, he pays the whole Amount of the Demand.

Admission of Part and Denial of Residue.

85. If the Trader admits Part of the Demand, and denies the Residue thereof, the following Provisions shall have effect:—

(1.) With respect to the Part admitted, the Court shall require him to sign an Admission thereof in Writing; and he shall be deemed to have committed an Act of Bankruptcy at the End of Seven Days from the signing of such Admission, unless in the meantime he pays the Amount admitted:

(2.) With respect to the Residue denied, the Court shall require him to sign a Declaration in Writing to the Effect that he has, to the best of his Judgment and Belief, a good Defence on the Merits to that Part of the Demand; and if he fails to make such a Declaration he shall be deemed to have committed an Act of Bankruptcy at the End of Seven Days from the Service of the Summons, unless in the meantime, or within such enlarged Time (if any) as the Court allows, he pays the Residue denied.

Refusal to sign Admission to be deemed Denial.

86. If the Trader, when required by the Court, fails to sign an Admission of the whole Demand, or an Admission of Part thereof, then, whether he makes any Statement or not, and whatever is the Nature of his Statement (if any), he shall be deemed for the Purposes of this Part of this Act to deny the whole Demand.

Bond for Demand or Part denied.

87. Where the Court requires the Trader to sign a Declaration of a good Defence to a Demand, or to Part thereof, the Court may also, if it thinks fit, at the same Time require him to enter into a Bond in such Sum and with such Surety or Sureties (not exceeding Two) as the Court directs, conditioned for the Payment of any Money recovered (with any Costs given) in any Action brought or to be brought in any Court of competent Jurisdiction for the Recovery of the Amount of the Demand, or of such Part thereof (as the Case may be); and if he fails to enter into such Bond, he shall be deemed to have committed an Act of Bankruptcy at the End of Seven Days from the Service of the Summons, unless in the meantime, or within such enlarged Time (if any) as the Court allows, he pays the Amount of the Demand, or of such Part thereof (as the Case may be).

Payment into Court of Law in lieu of Bond.

88. Where a Trader has been required to enter into a Bond, he may obtain exparte from a Judge of one of the Superior Courts of Law at Westminster an Order allowing him to pay into the Court named in the Order the Amount in respect of which he has signed a Declaration of good Defence, with a Sum not exceeding Thirty Pounds for Costs, to abide the Result of any Action brought or to be within Thirty Days brought for Recovery of the Demand or of Part thereof, and makes Payment according to the Order within the Time limited for his entering into a Bond, and gives Notice of such Payment to the Court by which he was required to enter into a Bond, then and in every such Case such Payment shall be deemed equivalent to the entering into a Bond.

Limitation of Time for Petition.

89. Notwithstanding anything in this Part of this Act, a Trader shall not be deemed to have committed an Act of Bankruptcy in any of the several Cases in this Part of this Act specified, unless a Petition for Adjudication of Bankruptcy against him is presented within Two Months from the filing of the Affidavit on which the Summons was issued.

Enlargement of Time by Court.

90. In any Proceeding by Trader-Debtor Summons, on reasonable Cause shown, the Court may from Time to Time, if and as it thinks fit, enlarge the Time for requiring the Trader to state whether he admits or denies the Demand, or any and what Part thereof, or to make a Declaration, or to enter into a Bond.

Admission of Demand out of Court.

91. An Admission of the whole or of Part of a Demand made after Service of a Trader-Debtor Summons, and signed out of Court by the Person summoned, (his Signature being attested by a Solicitor), may be filed in the Court, and when so filed shall have the

the same Effect as an Admission of the whole or of that Part of the Demand (as the Case may be), signed by him in Court, would have.

Notice, &c. in case of Partnership.

92. Where the Demand of a Creditor is against Persons trading in Partnership, the Delivery to any One of the Partners personally, or to some adult Inmate at his usual or last known Place of Abode or Business, and also at the Place of Business of the Partnership, of such an Account and Notice as are required in the case of a single Debtor, shall be sufficient to authorize the Court to issue a Trader-Debtor Summons, not only against the Partner to or for whom such Account and Notice are delivered, but also against any other or others of the Partners.

Costs of Proceedings in Court.

93. In any Proceeding by Trader-Debtor Summons the Court may, if it thinks fit, direct that the Costs of either Party shall abide the event of any Action brought or to be brought for the Recovery of the Demand, or any Part thereof, in which Case those Costs shall be deemed Part of the Costs of the Action, and shall be recoverable accordingly.

Costs of Action.

94. Where Proceedings are taken by Trader-Debtor Summons, and the Creditor in any Action against the Trader summoned does not recover, by Verdict or otherwise, the full Amount of the Demand stated in his Affidavit, or of the Part thereof not admitted by the Trader, the Costs of the Action shall be in the Discretion of the Judge before whom the Action is tried, or in case the Action is not brought to Trial then of a Judge of One of the Superior Courts of Law, or of the Court in which the Action is brought, if the same is not one of the Superior Courts.

Part V.—Declaration of Insolvency.

Filing of Declaration of Insolvency.

1849, s. 70.
1861, s. 72.
1866, § 97.

95. A Debtor not being in Prison or in Custody for Debt, or on Attachment for Non-payment of Money, or under Process of Contempt for such Non-payment, or on Detention for Debt, may file a Declaration signed by him (his Signature being attested by a Solicitor) that he is unable to meet his Engagements with his Creditors (in this Act referred to as a Declaration of Insolvency), in the following Court, at the Option of the Debtor, namely,—

(1.) In the County Court having Jurisdiction in the Place where the Debtor resides or carries on Business; or,

(2.) During the Continuance of the Country District Court of Bankruptcy (if any) having Jurisdiction in the Place aforesaid, in that District Court; or,

(3.) In the Court of Bankruptcy in London.

And in this Part of this Act the Court in which the Declaration is filed is referred to as the Court.

Where the Declaration is filed elsewhere than in the Court of Bankruptcy in London a Copy thereof shall be sent to that Court within such Time and in such Manner as General Orders direct.

Provisional Trustee to be Receiver.

96. On and after the filing of the Declaration the Provisional Trustee shall become and be the Receiver of the Property of the Debtor filing the same, and as such shall act and account as General Orders direct, and subject thereto as the Court directs.

Stay of Actions.

97. After the filing of the Declaration the Court may, on the Application of the Debtor or of any Creditor of the Debtor proving his Debt to the Satisfaction of the Court, restrain any Action, Suit, or Proceeding against the Debtor, on such Terms as the Court thinks fit.

Notice in Gazette.

98. Notice of the filing of the Declaration shall be gazetted.

Executions, &c. stayed.

99. After Notice of the filing of the Declaration has been gazetted, no Execution, Attachment, or other Process against the Debtor's Property in respect of any Debt or Demand, and no Process against his Person in respect of any Debt or Demand other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of England, shall be available without Leave of the Court.

List of Creditors and Property. 1861, s. 93.

100. Within Four Days after the filing of the Declaration the Debtor shall file in the Court a List, signed by him, shewing his Debts and Liabilities of every Kind, and the Times when the same were contracted or incurred, and the Considerations for the same, the Names, Residences, and Occupations of his Creditors and the respective Amounts due to them and all Securities held by them, and a Statement showing his Property and Credits and the estimated Value thereof; and he may from Time to Time add to or amend such List or Statement; and every such List, Statement, Addition, and Amendment shall be verified by his Affidavit.

Inspection of List and Statement.

101. Any Person stating himself to be a Creditor of the Debtor filing the Declaration may inspect the List of Creditors and Statement of Property filed, and have a Copy thereof or Extracts therefrom.

Declaration to be Act of Bankruptcy

102. Until the Expiration of Twenty-one Days after the Notice has been gazetted the Debtor shall not be deemed to have committed an

an Act of Bankruptcy by filing the Declaration; but if, within Three Days after the Expiration of that Period of Twenty-one Days, Proceedings to obtain Adjudication against him are taken by a Creditor, or if Proceedings are not so taken by a Creditor, then if within Two Days after the Expiration of that Period of Three Days such Proceedings are taken by the Debtor, then and in either of those Cases (but not otherwise) the Debtor shall be deemed to have committed an Act of Bankruptcy by filing the Declaration. in certain Cases.

103. Adjudication on such Act of Bankruptcy shall not prejudicially affect any Payment made or Thing done by the Bankrupt between the Act of Bankruptcy and the Adjudication, provided the same is made or done with the Consent or Approval of the Provisional Trustee. Saving for intermediate Transactions.

Part VI.—Adjudication.

Petition.

104. Proceedings to obtain Adjudication of Bankruptcy shall be by Petition (in this Act referred to as a Petition for Adjudication). Petition for Adjudication. 1849, s. 89. 1861, s. 87. 1866, § 111.

Court.

105. A Petition for Adjudication filed by a Debtor or by a Creditor may be filed, at the Petitioner's Option, as follows: Court for Commencement of Proceedings.

(1.) In the County Court having Jurisdiction in the Place where the Debtor has resided or carried on Business for the Six Months next before the filing of the Petition, or for the longest Time within that Period of Six Months, unless he is in Custody, and then in the County Court having Jurisdiction in the Place where he is in Custody; or,

(2.) During the Continuance of the Country District Court of Bankruptcy (if any) having Jurisdiction in the Place aforesaid, in that District Court; or,

(3.) In the Court of Bankruptcy in London.

Creditor's Petition.

106. A Creditor or Creditors shall not be entitled to petition for Adjudication except in respect of a Debt or Debts of the respective Amounts following:— Amount of petitioning Creditor's Debt. 1849, s. 91. 1861, s. 89. 1866, § 109.

One Person, or Two or more Persons being Partners, in respect of a Debt of Fifty Pounds or upwards:

Two Persons, not being Partners, in respect of a Debt or Debts of Seventy Pounds or upwards:

Three or more Persons, not being Partners, in respect of a Debt or Debts of One hundred Pounds or upwards.

Creditor for Sum not payable, &c. 1849, s. 91. 1861, s. 89.

107. A Creditor who has a Security in Writing for his Debt, or a Creditor who has given Credit to a Debtor on valuable Consideration for a Sum payable at a certain Time which has not arrived at the Date of an Act of Bankruptcy, may petition or join in petitioning for Adjudication.

Petition against One or more of Partners. 1849, s. 97. 1866, § 129.

108. A Person entitled to petition for Adjudication against all the Members of a Partnership may petition for Adjudication against any One or more of the Members thereof.

Verification of Creditor's Petition. 1849, s. 89. 1861, ss. 87 92. 1866, §§ 111, 128.

109. A Creditor's Petition for Adjudication shall be verified by Affidavit of the Petitioner, or if a Corporation or Company or a Body empowered by Act of Parliament or otherwise to sue and be sued are Petitioners, then by Affidavit of some Person on behalf of the Petitioners, stating in his Affidavit his Authority in that Behalf.

Witnesses to prove Trading and Act of Bankruptcy. 1849, s. 100.

110. Where a Creditor petitions for Adjudication the Court may before Adjudication summon before it any Person whom it believes capable of giving Information concerning the Trading (where requisite) or any Act of Bankruptcy committed by the Debtor, and may require any Person so summoned to produce any Books and Documents in his Custody, Possession, or Power appearing to the Court necessary to establish the Trading or an Act of Bankruptcy; and the Court may examine him on Oath orally, or by written Interrogatories, concerning the Trading and any Act of Bankruptcy.

Adjudication on Creditor's Petition. 1849, s. 101. 1866, § 116.

111. Where a Creditor petitions for Adjudication, the Court, on Proof of the petitioning Creditor's Debt, the Trading (where requisite), and the Act of Bankruptcy, shall adjudge the Debtor Bankrupt.

Limitation for Adjudication after Act of Bankruptcy. 1849, s. 88. 1866, § 109.

112. Where a Creditor petitions for Adjudication, the Debtor, except as in this Act expressly otherwise provided, shall not be liable to be adjudged Bankrupt on an Act of Bankruptcy committed more than Three Months before the filing of the Petition.

Date of Petitioning Creditor's Debt against Non-trader. 1861, s. 90.

113. Where a Creditor petitions for Adjudication against a Non-Trader, then, notwithstanding anything in this Act, the Debtor shall not be liable to be adjudged Bankrupt in respect of a Debt contracted before the Sixth Day of August One thousand eight hundred and sixty-one.

114. Where

114. Where a Creditor petitions for Adjudication against a Non-Trader, and the Act of Bankruptcy alleged is one constituted by Departure or Absence from England, or by Conveyance, Surrender, Gift, Delivery, or Transfer of Property, Adjudication shall not be made, except subject and according to the following Provisions:

Proceedings on Creditor's Petition against Non-trader departing, &c. 1861, s. 70. 1866, §§ 114, 116.

(1.) A Copy of the Petition for Adjudication shall be served on the Debtor in England, or in such Place or Country or within such Limits out of England as the Court directs, and such Service shall be personal subject to the Provisions herein-after contained:

(2.) There shall be indorsed on the Copy served a Memorandum specifying the Time within which the Debtor is to appear on the Petition, which Time shall be such as the Court thinks reasonable, regard being had to the Place or Country where the Service is to be made:

(3.) If personal Service is not effected the Court must be satisfied that every reasonable Effort was made to effect the same, and that the Efforts to effect the same came to the Knowledge of the Debtor, and were defeated by his Conduct:

(4.) If the Debtor appears the Court shall appoint a Day for hearing the Petition:

(5.) If at the Time appointed for the Hearing, or in case the Debtor does not appear then if at the Expiration of the Time limited for Appearance, the Court on hearing the Petition is satisfied that an Act of Bankruptcy has been committed, it may adjudge the Debtor Bankrupt.

(6.) If the Adjudication is made after the Appearance of the Debtor it shall be absolute.

Debtor's Petition.

115. A Debtor may petition for Adjudication against himself on an Act of Bankruptcy constituted by filing a Declaration of Insolvency as in this Act provided, but not on any other Act of Bankruptcy.

Petition by Debtor. 1849, s. 101.

116. Where a Debtor petitions for Adjudication against himself, the Court, on the Application of the Petitioner, and on Proof of the Act of Bankruptcy, shall adjudge the Petitioner Bankrupt, and the Adjudication shall be absolute.

Adjudication on Debtor's Petition. 1849, s. 101.

Proceedings on Petition.

117. If the Petitioner does not proceed and obtain Adjudication, being a Creditor, within Three Days, and being a Debtor within

Time for proceeding by Petitioner and Substitu-

tion of other Petitioner.
1849, s. 101.
1861, s. 96.
1866, § 117.

Twenty-four Hours, after filing his Petition, or such further Time as the Court allows, any Creditor having a sufficient Debt may, within Four Days after the Expiration of the Time limited for the Proceedings of the Petitioner, apply to the Court for an Order to substitute the Applicant as Petitioner; and the Court may, if it thinks fit, so order, and thereupon shall proceed to hear and determine the Petition; but if, within the Time allowed by this Section, Adjudication is not made, the Petition shall stand dismissed.

Dismissal of Petition against One or more.
1849, s. 97.
1866, § 129.

118. Where a Petition for Adjudication is filed against Two or more Persons, the Court may dismiss the same as to One or more of them; and such Dismissal shall not prejudice the Effect of the Petition as against the other or others of them.

Substitution on Insufficiency of petitioning Creditor's Debt.
1849, s. 103.

119. If, after Adjudication on a Creditor's Petition, it is shown to the Court that the Petitioner had no Debt, or that his Debt is insufficient to support the Adjudication, another Creditor having a sufficient Debt may apply to the Court for an Order that the Petition be proceeded with; and the Court may, if it thinks fit, so order, and thereupon the Adjudication, and all Proceedings thereunder, shall be as valid as if the Applicant had been Petitioner.

Power for Court to order Satisfaction for malicious Petition, &c.
1849, s. 267.

120. If the Debt stated by the Petitioning Creditor in his Affidavit or Petition to be due to him is not really due, or if, after a Petition for Adjudication filed, it is not proved that the Person against whom it is filed had committed an Act of Bankruptcy at the Time of the filing, and it also appears that the Petition was filed fraudulently or maliciously, the Court shall, on the Application of the Person against whom it was filed, examine into the same, and order Satisfaction to be made to him for the Damages by him sustained.

Petitioning Creditor compounding.
1849, s. 268.
1866, § 247.

121. If the Petitioning Creditor after Adjudication receives any Money Satisfaction or Security for his Debt, or any Part thereof, whereby he may receive more than other Creditors, he shall be liable to forfeit his whole Debt, and also to repay or deliver up to the Trustee, for the Benefit of the Creditors, such Money Satisfaction or Security, or the full Value thereof.

Petitioning Creditor's Costs.
1849, s. 114.
1866, § 118.

122. The Petitioning Creditor shall file and prosecute his Petition at his own Expense until the Choice of a Trustee by the Creditors; and after the Choice the Court shall order the Payment of the Petitioning Creditor's Costs out of the Bankrupt's Estate in such Priority as General Orders direct.

123. Adjudi-

Validity of Adjudication, notwithstanding prior Act of Bankruptcy.
1849, s. 88.
1866, § 109

123. Adjudication of Bankruptcy shall not be invalid by reason of an Act of Bankruptcy prior to the Debt of the Petitioning Creditor, provided there is a sufficient Act of Bankruptcy subsequent to that Debt.

Death of Bankrupt.
1849, s. 116.
1866, § 117.

124. If a Bankrupt dies after Adjudication, the Court may, if it thinks fit, order that the Proceedings in the Matter be continued as if he had not died.

Subsequent Petition against a Member or Members of same Partnership.
1849, s. 98.
1866, § 130.

125. After Adjudication on a Petition against a Member or Members of a Partnership, any other Petition for Adjudication against a Member or Members of the same Partnership shall be filed in or transferred to the Court in which Adjudication on the first-mentioned Petition was made; and unless the Court otherwise directs, the Estate of the Bankrupt or Bankrupts under the Adjudication on such other Petition shall vest in the Trustee in whom the Estate of the Bankrupt or Bankrupts under the first-mentioned Adjudication is then vested; and the Court may give such Directions as it thinks fit respecting the Proceedings on the Petitions.

Power to consolidate, &c. Proceedings on Petitions.
1861, s. 18.
1866, § 138.

126. The Court or the Court of Appeal may consolidate the Proceedings or any Part thereof under Two or more Petitions for Adjudication, or may impound any Petition for Adjudication and the Proceedings thereunder, or any Part thereof, on such Terms as the Court thinks fit.

Concerted Act of Bankruptcy.
1849, s. 115.
1866, § 131.

127. A Petition for Adjudication shall not be dismissed nor shall an Adjudication be annulled by reason only that the Petition, Adjudication, or Act of Bankruptcy was concerted or agreed on between the Bankrupt, or any Person on his behalf, and any other Person.

Submission to Adjudication.
1866, § 133.

128. If a Person against whom a Petition for Adjudication is filed files in the Court a Declaration signed by him either before or after the filing of the Petition (his Signature being attested by a Registrar or Messenger or a Solicitor), to the Effect that he submits to Adjudication, the Adjudication (if any) made on such Petition shall be absolute.

Showing Cause against Adjudication and annulling.
1849, s. 104.
1859, § 76.
1866, §§ 132, 133.

129. A Copy of the Order of Adjudication (where the same is not absolute) shall be served on the Person adjudged Bankrupt, personally or by Delivery thereof at his usual or last known Place of Abode or Business, or otherwise as the Court directs; and he shall be allowed Seven Days, or such further Time (not exceeding Twenty-one Days in the whole) as the Court thinks fit, from such Service, to show

show Cause to the Court against the Validity of the Adjudication; and unless he appears within that Time to show Cause, and then or afterwards, within a Time allowed by the Court, shows that the Petitioning Creditor's Debt, Trading (where requisite), or Act of Bankruptcy is insufficient to support the Adjudication, and no other Debt, Trading, or Act of Bankruptcy (as the Case requires), sufficient to support the Adjudication is proved, or shows the Invalidity of the Adjudication on any other Ground, the Adjudication shall become absolute.

Gazette Notice of Adjudication.

130. Notice of Adjudication, when the same is or has become absolute, shall be gazetted.

Consent to Notice of Adjudication.

131. If a Person adjudged Bankrupt files in the Court, before the Expiration of the Time allowed for showing Cause against Adjudication, a Declaration, signed by him (his Signature being attested by a Registrar or Messenger or a Solicitor), to the Effect that he submits to the Adjudication and consents to Notice thereof being gazetted, the Adjudication shall thereupon be absolute, and Notice thereof shall be gazetted accordingly.

Application to annul. 1849, s. 233. 1866, § 134.

132. After Adjudication is or has become absolute the Bankrupt may apply to the Court to annul the same within the Times following, but not afterwards:

If he was in the United Kingdom, the Channel Islands, or the Isle of Man, at the Time of Adjudication, then within One Month after Notice of Adjudication is gazetted:

If he was in any other Part of Europe at the Time of Adjudication, then within Three Months after Notice of Adjudication is gazetted:

If he was out of Europe at the Time of Adjudication, then within Eight Months after Notice of Adjudication is gazetted.

Order of Adjudication conclusive.

133. Subject to Appeal and to the Power of annulling under this Act, the Order of Adjudication, when the same is or has become absolute, shall be final and conclusive with respect to the Validity of the Adjudication and to the Existence of all Requisites thereto, and the Order shall not be liable to be disturbed or impeached at Law or in Equity, or otherwise, on any ground whatever, nor shall any of the Requisites to Adjudication of Bankruptcy be disputed or required to be proved in any Action, Suit, or Proceeding; and accordingly, on Proof of the Order of Adjudication, the Bankrupt shall, in all Courts and to all Intents whatever, be conclusively deemed to have been duly adjudged Bankrupt, and shall be deemed to

to be Bankrupt, unless and until it is shown that the Adjudication has been reversed on Appeal or has been annulled, or that the Bankrupt has obtained an Order of Discharge which has taken effect.

Time for Surrender.

134. The Notice of Adjudication shall prescribe a Time within which the Bankrupt is required to surrender, which Time the Court may, if it thinks fit, from Time to Time enlarge.

Power to dispense with personal Appearance for Surrender. 1859, § 77.

135. If a Person adjudged Bankrupt files in the Court before the Expiration of the Time allowed for showing Cause against Adjudication a Declaration signed by him (his Signature being attested by a Registrar or Messenger or a Solicitor), to the Effect that he surrenders, the Court may on his Application, if it thinks fit, dispense with his personal Attendance for Surrender, and he shall thereupon be deemed to have duly surrendered.

Surrender after Apprehension. 1849, s. 161.

136. If the Bankrupt, having been apprehended by Warrant of the Court within the Time allowed for Surrender, submits to be examined, and in all respects conforms, he shall have the same Benefit as if he had voluntarily surrendered.

Protection of Bankrupt in coming to Surrender, &c. 1849, s. 112.

137. If the Bankrupt is not in Prison or in Custody at Adjudication he shall be free from Arrest in coming to surrender, and after Surrender during the Time limited for Surrender and until the Time appointed for his last Examination, and for such Time after passing his last Examination until his Order of Discharge takes effect as the Court from Time to Time by Indorsement on his Summons thinks fit to appoint.

Bringing up of Bankrupt when in Custody. 1849, s. 112.

138. If the Bankrupt is in Prison or in Custody under any Process, Attachment, Execution, Commitment or Sentence, the Court may by Warrant directed to the Person in whose Custody he is, cause him to be brought before it at any Sitting either Public or Private, and such Person shall be indemnified by the Warrant of the Court for bringing him up; and if he is desirous to surrender personally, he shall be brought up and the Expense thereof shall be paid out of his Estate.

Discharge of Bankrupt on Production of Protection. 1849, s. 113.

139. If the Bankrupt in coming to surrender, or after Surrender and while protected, is arrested for Debt or on an Escape Warrant, he shall, on producing his Protection to the Officer arresting him, and giving to such Officer a Copy thereof, be immediately discharged; and if any Officer detains the Bankrupt, after he has produced his Protection to the Officer, beyond the Time necessary for obtaining a Copy thereof, the Officer shall be liable to forfeit a Sum not exceeding Five Pounds for every Day during which he detains the Bankrupt.

 140. If

Warrant of Arrest and Seizure against Person about to quit England, &c.
1849, s. 99.
1866, § 135.

140. If after the Filing of the Petition for Adjudication it is shown to the Satisfaction of the Court that there is probable Cause for believing that the Person against whom Adjudication is sought is about to quit England, or to remove or conceal any of his Property with Intent to defraud, unless he is forthwith apprehended, the Court may, if it thinks fit, issue a Warrant directed to a Messenger of the Court and his Assistants, or to such Persons as the Court thinks fit, whereby such Messenger, Assistants, and Persons shall have Authority to arrest the Person against whom Adjudication is sought, wherever found, and to seize his Books, Documents, and Personal Property, wherever found, and him and them safely keep until Adjudication or the Expiration of the Time allowed for Adjudication on such Petition; but the Person against whom such Warrant is issued may, at any Time after Arrest or Seizure thereunder, obtain from the Court an Order on the petitioning Creditor to show Cause why he should not be discharged out of Custody, or why the Things seized should not be delivered up to him, and the Court may, if it thinks fit, on Cause being shown, make absolute or discharge such Order.

1856, ss. 67–76.
1866, §§ 143–155.

Part VII.—Choice of Trustee and Inspectors.

Appointment of First Meeting of Creditors.

141. The Court shall, by the Order of Adjudication in case the Adjudication is absolute, or by an Order made after the Adjudication has become absolute, appoint a Meeting of the Creditors of the Bankrupt (in this Act referred to as the First Meeting).

The Order shall prescribe the Day, Hour, and Place for the First Meeting.

Gazetting of Notice for Meeting.

142. The Day, Hour, and Place for the First Meeting shall be gazetted.

Registrar to attend Meeting.

143. The Registrar, or some fit Person appointed by the Court for this Purpose, shall attend and preside at the First Meeting, and shall have the same Power and Jurisdiction as a Registrar has at Chambers.

Choice of Trustee.

144. At the First Meeting the Creditors may choose a fit Person (whether a Creditor or not) to be the Trustee of the Estate and Effects of the Bankrupt.

Security and Remuneration of Trustee.

145. The Creditors from Time to Time may require the Trustee to give such Security (if any) as they think fit, and may make such Provision as they think fit for his Remuneration.

146. When

146. When the Trusteeship has been accepted by the Person chosen Trustee the Court shall by Order either confirm the Choice, or reject the Person chosen if he appears to the Court unfit to be Trustee; and any Order of Confirmation or Rejection shall not be subject to Review or Appeal. Confirmation or Rejection by Court.

Notice of an Order of Confirmation shall be gazetted.

147. At the First Meeting the Creditors may choose a fit Person, being a Creditor, or Two or more fit Persons, being Creditors, to superintend the Administration of the Bankrupt's Estate by the Trustee, and to be called the Inspector or the Inspectors of the Bankrupt's Estate. Choice of Inspectors.

148. The Trustee or an Inspector, or One Fourth in Value of the Creditors who have proved their Debts, may at any Time apply to the Court for the Removal of the Trustee, on his Resignation or for any sufficient Reason, and the Court may if it thinks fit make Order accordingly. Resignation, &c. of Trustee.

149. If a Trustee is adjudged Bankrupt he shall thereupon cease to be Trustee; and the Court may at any Time, without any Application, remove a Trustee by Order, for some sufficient Reason therein stated. Removal of Trustee on Bankruptcy, &c.

150. In case of the Rejection by the Court of a Person chosen Trustee, and on the Removal, Bankruptcy, or Death of a Trustee, the Court shall appoint another Meeting of Creditors for the Choice of a Trustee, and like Proceedings shall be had, and the Court shall have the like Power, as on the original Choice; and a new Trustee shall have like Powers, Authorities, and Discretion as an original Trustee; and all Property and Rights vested in any Trustee shall, on a new Trustee succeeding him, be deemed to be transferred to and shall be vested in the new Trustee; and so toties quoties. Appointment of new Trustee.

151. An Inspector may at any Time resign his Office by Notice in Writing signed by him delivered to the Trustee; and an Inspector may be removed by Resolution of a Meeting of the Creditors, (Seven Days Notice in Writing of such Meeting having been given to him by any Two Creditors who have proved their Debts); and on any such Resignation or Removal, or on the Death of an Inspector, the Court shall appoint another Meeting of Creditors for the Choice of an Inspector, and like Proceedings shall be had as on the original Choice; and a new Inspector shall have like Powers, Authorities, and Discretion as an original Inspector; and so toties quoties. Choice of new Inspector.

Regularity of Proceedings notwithstanding Want of Inspectors.

152. No Act or Proceeding of the Trustee or of the Creditors shall be affected by reason only of any Vacancy in the Office of Inspector, or by reason only of any Failure to elect or any Defect or Irregularity in or about the Election of an Inspector.

Creditors in Cases of Partnership, &c.

153. Where a Person adjudged Bankrupt is a joint Contractor or jointly bound with other Persons, or a Member of a Partnership, any Person to whom he is indebted jointly with the other Persons or Partners or any of them shall for the Purposes of this Part of this Act be deemed a Creditor of the Bankrupt.

Part VIII.—Meetings.

Creditors to act at Meeting.

154. Where by this Act anything is directed or authorized to be done by Creditors (collectively), the same may be done at a Meeting of Creditors, and not otherwise.

Rules respecting Meetings.
1856, ss. 101, 63.
1861, s. 229.
1866, § 204.

155. With respect to Meetings of Creditors the following Provisions shall have effect:

(1.) Creditors who prove before or at a Meeting shall alone have Votes at it.

(2.) A Creditor may be represented at a Meeting by a Proxy.

(3.) A Meeting shall not be competent to act for any Purpose under this Act unless there are present or represented thereat at least Three Creditors, or all the Creditors, if their Number does not exceed Three.

(4.) Questions at a Meeting shall be determined, except where otherwise provided in this Act, by the Majority in Value of the Creditors present or represented thereat.

(5.) A Meeting may be adjourned, and an adjourned Meeting shall be equivalent to the original Meeting.

(6.) Minutes of the Proceedings at Meetings shall be kept by the Trustee, and certified Copies thereof shall be from Time to Time filed in the Court within such Times and in such Manner as General Orders direct.

Votes of secured Creditor.
1856, s. 59.
1866, § 175.

156. If a Creditor holds a Security for his Debt, or any Part thereof, on the Bankrupt's Property, he shall (unless he gives up his Security) be reckoned a Creditor for the Purpose of voting at Meetings in respect of the Balance only of his Debt, after selling or disposing of his Security, or giving Credit for the Value thereof, estimated as General Orders direct, and subject thereto as the Court directs or approves.

157. The

157. The Trustee shall from Time to Time convene a Meeting of the Creditors at such Times and Places as the Creditors at the First Meeting or afterwards from Time to Time direct, and in the Absence of any such Direction then according to General Orders; and the Inspectors may from Time to Time convene a Meeting of the Creditors at such Times and Places as they think convenient.

Holding of Meetings. 1856, ss. 96. and foll. 1866, § 200.

158. Notices of Meetings of Creditors shall be gazetted, and shall also be given in such Manner (if any) as the Creditors at the First Meeting or afterwards from Time to Time direct, or in the Absence of such Direction as the Inspectors from Time to Time direct.

Notices of Meetings. 1856, ss. 99, 100. 1866, § 203.

159. For the Purposes of this Act a Meeting of Creditors shall be deemed a Special Meeting when not less than Ten Days previous Notice convening the Meeting has been gazetted, and the Business to be transacted at the Meeting is specially stated in the Notice.

A Special Meeting shall not enter on any Business other than that stated in the Notice convening it.

Special Meetings.

Part IX.—Last Examination and Accounts.

160. The Court shall after the Day originally appointed for the First Meeting appoint a public Sitting (Notice whereof shall be given in the Gazette and in such Newspapers as the Court thinks fit) for the Bankrupt to pass his last Examination, and, unless the Court otherwise directs, to make Application for his Discharge; but the Court may, if it thinks fit, enlarge the Time appointed for such Sitting, or adjourn the same.

Last Examination. 1861, s. 140.

161. The Court, at the Time appointed for the last Examination of the Bankrupt, or at any Enlargement or Adjournment thereof, may, if it thinks fit, in any of the following Cases, adjourn the Examination sine die, with Liberty to the Bankrupt to apply; that is to say,—

Adjournment of last Examination sine die. 1849, s. 162.

(1.) If the Examination and Accounts of the Bankrupt are not satisfactory to the Court, and it appears to the Court that his Failure to give further or better Accounts is attributable to Neglect on his Part:

(2.) If it appears to the Court that the Bankrupt has wilfully disobeyed any Order of the Court in his Bankruptcy (without Prejudice to the Exercise of any other Power vested in the Court):

(3.) In any Case in which the Court thinks it fit that an Adjournment should be made for a longer Period than One Month:

and in case of an Adjournment sine die, the Bankrupt shall be free from Arrest or Imprisonment for such Time (if any) as the Court from Time to Time by Indorsement on his Summons thinks fit to appoint.

Bankrupt's Statement of Accounts. 1861, s. 141.

162. The Bankrupt shall prepare and sign a Statement of his Accounts, and file it in the Court, within such Time as General Orders direct, before the Day appointed for the last Examination or the Adjournment thereof; and such Statement may, before the last Examination, be amended from Time to Time as Occasion requires or the Court directs; and the Bankrupt shall verify the same on Oath whenever required by the Court; and the last Examination shall in no Case be passed unless such Statement has been duly filed.

Assistance in preparing Statement to Bankrupt in Custody. 1849, s. 163.

163. Where the Bankrupt is in Prison or in Custody, the Court may appoint a Person to attend him from Time to Time, to produce to him his Books and Documents, in order that he may prepare his Statement of Accounts.

Statement of Accounts open to Creditors. 1861, s. 142.

164. The Statement of Accounts when filed shall be open to the Inspection of all Persons stating themselves to be Creditors, and they may take Copies of or Extracts from the same, subject to Regulations by General Orders; and an Abstract thereof shall be made and printed, and a printed Copy of such Abstract shall be sent by Post by the Trustee to each Creditor who has proved.

Trustee's Report on State of Bankrupt's Affairs. 1861, s. 143.

165. In the Preparation of such Statement the Bankrupt shall be assisted by the Provisional Trustee, who shall prepare and file in the Court a Report on the State of the Bankrupt's Affairs, setting forth such Facts and Particulars as are, in the Opinion of the Provisional Trustee, important for the Court to be informed of; but if in any Case there appear to the Court special Reasons why the Bankrupt should be assisted in the Preparation of such Statement by some Person other than the Provisional Trustee, the Court may nominate some Person in that Behalf, and may allow him out of the Bankrupt's Estate such Remuneration as to the Court on Taxation seems just; and in that Case the Statement shall have appended thereto a Certificate by the Person so appointed of his Approval or Disapproval thereof, and in case of Disapproval the Particulars and Reasons of such Disapproval.

1849, ss. 198–207.
1859, §§ 125–142.
1861, ss. 157–172.
1866, §§ 279–289.

Part X.—Order of Discharge.

Order of Discharge.

166. Subject to the Provisions of this Act, after the Bankrupt passes his last Examination the Court shall on his Application make in his Favour an Order (to be called an Order of Discharge) discharging him from Debts, Claims, and Demands proveable under the Bankruptcy.

Notice of and Opposition to Application.

167. Notice of the Bankrupt's Intention to apply for an Order of Discharge shall be gazetted and shall be given to the Trustee; and the Trustee, or any Creditor (including, where the Bankrupt is a Joint Contractor or jointly bound with other Persons, or a Member of a Partnership, any Joint Creditor) who has proved, may be heard in opposition to the Application, having given not less than Three Days Notice, in such Manner as General Orders direct, of his Intention to oppose.

Inquiry into Bankrupt's Conduct.

168. Whether the Order is opposed or not, the Court, having regard to the Bankrupt's Conformity to the Law of Bankruptcy, and to his Conduct relative to his Trade, Business, Property, or Affairs before and after Adjudication, shall judge of any Objection to an immediate Order of Discharge.

Suspension of Order of Discharge.

169. Whether the Order of Discharge is opposed or not, the Court may, if it thinks fit, in and by the Order suspend the Order from taking effect, as follows, namely,—for any Time not exceeding Three Years from the Date of the Order, if it appears to the Satisfaction of the Court—

1. That the Bankrupt has done any of the Acts by this Act made Misdemeanours, but has not been convicted thereof;
2. That he has, within Four Months next before Adjudication, fraudulently, in contemplation of Bankruptcy, and with Intent to diminish the Sum to be divided among his Creditors, or to give an undue Preference to any of his Creditors, paid or satisfied any of his Creditors, wholly or in part, whether under Pressure or not, or made away with, mortgaged, or charged any Part of his Property;
3. That he has, within Six Months next before Adjudication, put any Creditor to unnecessary Expense by vexatious or frivolous Defence or Delay to or in any Proceeding for the Recovery of any Debt or Demand proveable under his Bankruptcy, or is indebted in Costs incurred in any Proceeding vexatiously or frivolously defended or delayed by him;
4. That, having been to his Knowledge or Belief unable to meet his Engagements with his Creditors, he, without reasonable Excuse (Proof whereof shall lie on him), failed to file or delayed

delayed the filing of a Declaration of Insolvency, or that having filed a Declaration of Insolvency, he, without reasonable Excuse (Proof whereof shall lie on him), failed to file in the Court within Four Days thereafter such List and Statement as by this Act required;

5. That he, being a Trader, has during his trading omitted to keep proper Books of Account, or kept his Books of Account imperfectly;

6. That any Debt or Liability of the Bankrupt subsisting at the Time of Adjudication was contracted or incurred by him without any reasonable Expectation of his being able to pay or discharge it;

7. That any Debt or Liability of the Bankrupt subsisting at the Time of Adjudication was contracted or incurred by him by or through any Fraud or false Pretence or Breach of Trust committed by him, or that Forbearance of any such Debt or Liability had been obtained by the Bankrupt by Fraud or false Pretence, or that any such Debt or Liability had been contracted or incurred by him by reason of any Prosecution or Proceeding wherein he was found guilty of any Offence, or of a Breach of the Revenue Laws, or by reason of any Action or Proceeding for Libel, Slander, Assault, Battery, Adultery, Seduction, Breach of Promise of Marriage, malicious Arrest, malicious Prosecution, malicious Trespass, or malicious Injury, or the malicious filing or Prosecution of a Petition for Adjudication of Bankruptcy, or that the Property of the Bankrupt has been diminished by Payment or Discharge within Six Months next before Adjudication of any such Debt or Liability;—

or for any Time not exceeding One Year from the Date of the Order, if it appears to the Satisfaction of the Court that any Objection to an immediate Order exists on any Ground not herein-before specified.

Date, &c. of Order of Discharge.

170. An Order of Discharge shall be dated as of the Day on which it is made, and if suspended shall take effect from the Expiration of the Period of Suspension, but if immediate and either not appealed from or affirmed on Appeal, then as from the Day of its Date.

Cesser of Suspension on Conviction.

171. Where an Order of Discharge is suspended on the Ground that it appears to the Satisfaction of the Court that the Bankrupt has done an Act by this Act made a Misdemeanour, but has not been convicted thereof, and the Bankrupt is afterwards convicted of

of that Misdemeanour, the Suspension of the Order of Discharge shall on his Conviction cease to operate.

Plea of Discharge.

172. If the Bankrupt, after the Order of Discharge takes effect, is arrested or sued for any Debt, Claim, or Demand proveable under the Bankruptcy, he shall be discharged on entering an Appearance, and may plead in general that the Cause of Action accrued before he was adjudged Bankrupt, and may give this Act and the special Matter in Evidence; and the Order of Discharge shall be sufficient Evidence of the Bankruptcy and of the Proceedings precedent to the Order of Discharge.

Discharge from Custody on subsequent Arrest.

173. If the Bankrupt, after the Order of Discharge takes effect, is arrested or detained in Custody for a Debt, Claim, or Demand proveable under the Bankruptcy, where Judgment has been obtained before the Order of Discharge takes effect, a Judge of a Superior Court of Law shall, on Proof of the Order of Discharge, and unless there appears good Reason to the contrary, direct the Officer who has the Bankrupt in custody to discharge him, which shall be done accordingly without Fee.

Contract after filing of Petition.

174. After the Order of Discharge takes effect the Bankrupt shall not be liable to pay or satisfy any Debt, Claim, or Demand proveable under the Bankruptcy, or any Part thereof, on any Contract or Promise made after Adjudication; and if he is sued on any such Contract or Promise he may plead in general that the Cause of Action accrued pending Proceedings in Bankruptcy, and may give this Act and the special Matter in Evidence.

Operation of Discharge on Process for Contempt.

175. The Order of Discharge shall discharge the Bankrupt from the Effects of any Process issuing out of any Court for Contempt of any Court for Nonpayment of Money or of Costs or Expenses in any Court, and from all Costs, Fees, or Charges which he would be liable to pay in consequence of or on purging his Contempt; and a Bankrupt in Custody under any such Process shall, on obtaining an Order of Discharge, be entitled to be discharged from such Custody forthwith.

Exception of Crown Debts, &c.

176. The Order of Discharge shall not discharge the Bankrupt from any Debt due to the Crown, or any Debt or Penalty with which he stands charged at the Suit of the Crown or of any Person for any Offence against a Statute relating to any Branch of the Public Revenue, or at the Suit of the Sheriff or other public Officer on a Bail Bond entered into for the Appearance of any Person prosecuted for any such Offence, unless the Commissioners of Her

Majesty's Treasury certify in Writing their Consent to the Bankrupt being so discharged.

Exception of joint Debtors.

177. The Order of Discharge shall not release any Person who, at the Time of Adjudication, was a Partner with the Bankrupt, or was jointly bound or had made any joint Contract with him.

Review and Rehearing.

178. The Order of Discharge, whether suspended or not, shall not be reviewed by the Court, unless the Court sees good Cause to believe that the Order or the Suspension thereof was obtained on false Evidence, or by reason of the Suppression of Evidence, or otherwise fraudulently, in any of which Cases the Court may, if it thinks fit, on the Application of the Trustee or of a Creditor who has proved, or of the Bankrupt, and subject to such Deposit for Costs, and to such Notice, by Advertisement or otherwise, as the Court thinks fit, grant a Rehearing of the Matter and rehear it accordingly; and on rehearing the Court shall make such Order as it thinks just, in like Manner as it might on an original Hearing.

Protection of subsequent Creditors.

179. If on rehearing the Court suspends the Order of Discharge, all Persons having become Creditors of the Bankrupt between the Time of the Order originally taking effect and the Time of its Suspension being ordered on rehearing, shall as against any Property acquired by the Bankrupt during the same Period, and in priority to the original Creditors, be admitted to prove and have Dividends under the Bankruptcy.

Part XI.—Consequences of Adjudication with respect to Property.

Vesting of Personal Property in Trustee.
1849, s. 141.
1866, § 221.

180. Where any Person is adjudged Bankrupt, all Personal Property which he has at Adjudication or which comes to him before his Order of Discharge takes effect, or which he had at the Time he became Bankrupt by committing any Act of Bankruptcy within Three Months before the filing of the Petition for Adjudication (whether, in case of Adjudication on a Creditor's Petition, the Petitioning Creditor's Debt existed at the Date of any Act of Bankruptcy anterior to that on which Adjudication is made, or not), and all Debts due or to be due to him at or before the Times aforesaid, shall, by virtue of the Order confirming the Choice of the Trustee, become absolutely vested in the Trustee for the Time being, for the Benefit of the Creditors of the Bankrupt.

181. After

Recovery of Debts.
1849, s. 141.
1866, § 221.

181. After Adjudication neither the Bankrupt nor any Person claiming through or under him shall have Power to recover any such Debt, or to make any Release or Discharge thereof, nor shall the same be attached as the Debt of the Bankrupt; and the Trustee shall have like Remedy to recover the same in his own Name as the Bankrupt himself might have had if he had not been adjudged Bankrupt.

Vesting of Real Property in Trustee.
1849, s. 142.
1866, § 213.

182. Where any Person is adjudged Bankrupt all Real Property (other than Lands of Copyhold or Customary Tenure) in the British Dominions of, to, or in which at Adjudication or before his Order of Discharge takes effect, or when he became Bankrupt by committing any Act of Bankruptcy within Three Months before the filing of the Petition for Adjudication (whether, in case of Adjudication on a Creditor's Petition, the Petitioning Creditor's Debt existed at the Date of any Act of Bankruptcy anterior to that on which Adjudication is made, or not), he is or becomes or was seised, possessed, or entitled, or has or had any beneficial Interest whereof by Law he may dispose or might have disposed, shall, by virtue of the Order confirming the Choice of the Trustee, become absolutely vested in the Trustee for the Time being, for the Benefit of the Creditors of the Bankrupt.

Registration of Order of Confirmation, &c.
1849, s. 143.
1866, § 214.

183. The Certificate that a Provisional Trustee is the sole Trustee of an Estate, and the Order confirming the Choice of the Trustee, shall, for the Purposes of any Act or Law in force in any Part of the British Dominions requiring Registration, Enrolment, or recording of Conveyances or Assignments of Property, be deemed to be a Conveyance or Assignment of Property, and may be registered, enrolled, and recorded accordingly.

Application of Fines and Recoveries Act.
3 & 4 Will. 4. c. 74.
1849, s. 208.
1866, § 215.

184. Sections Fifty-six to Seventy-three (both inclusive) of the Act of the Session of the Third and Fourth Years of the Reign of King William the Fourth (Chapter Seventy-four), "for the Abolition of Fines and Recoveries, and for the Substitution of more "simple Modes of Assurance", shall extend and apply to Proceedings in Bankruptcy under a Petition for Adjudication, as if those Sections were here re-enacted and made applicable in Terms to such Proceedings.

Vesting Order as to Copyholds.
1849, s. 209.
1859, §§ 118. 119, 120.

185. The Court may dispose, for the Benefit of the Creditors, of any Estate or Interest at Law or in Equity which the Bankrupt has in any Lands of Copyhold or Customary Tenure, and may make an Order vesting the Lands, or such Estate or Interest as the

1861, s. 114.
1866, § 216.

Bankrupt has therein, in such Person and in such Manner as the Court thinks fit.

Where the Bankrupt's Estate or Interest is an Estate or Interest in Equity only, the same shall vest by force of and according to such Order without other Assurance.

Where the Bankrupt's Estate or Interest is not an Estate or Interest in Equity only, the vesting Order shall be entered on the Court Rolls of the Manor of which the Lands are parcel (which Entry the Lord, or his Steward, or Steward's Deputy is hereby required to make), and shall be equivalent to a proper Surrender or Deed of or concerning the same Lands, and if made with the Consent of the Lord shall be equivalent to both Surrender or Deed and Admittance.

Leases and Conveyances at Rent.
1849, s. 145.
1861, s. 131.
1866, § 217.

186. Where at Adjudication the Bankrupt holds a Lease or Agreement for a Lease, or holds Lands subject to a perpetual yearly Rent reserved by the Conveyance or Agreement for Conveyance thereof, the Bankrupt's Interest therein shall be deemed to vest in the Trustee as Part of the Bankrupt's Estate, subject to the following Provisions :—

(1.) The Liability of the Bankrupt personally in respect thereof shall cease on Adjudication :

(2.) On or before the first quarterly or half-yearly Day after Adjudication on which Rent is payable in respect of such Lease, Agreement, or Conveyance, not being earlier than Two Months or later than Six Months after the Trustee comes to the Knowledge thereof, the Trustee, by Writing signed by him (his Signature being attested by a Registrar or a Solicitor) and filed in the Court, shall elect to take or to decline the Lease, Agreement, or Conveyance, and until such Election the Bankrupt's Estate shall continue liable as if there had been no Adjudication :

(3.) If the Trustee elects to take the Lease, Agreement, or Conveyance, the Bankrupt's Estate shall continue liable as if there had been no Adjudication :

(4.) If the Trustee elects to decline the Lease, Agreement, or Conveyance, or fails to elect, the Lands comprised therein shall go and remain to the Person entitled thereto subject to the Lease, Agreement, or Conveyance, and shall be as if the Lease, Agreement, or Conveyance had not been made :

(5.) In any Case the Court may if it thinks fit issue a Warrant for the taking of Possession of the Lands, and the Delivery of Possession thereof to the Trustee or to the Person entitled thereto subject to the Lease, Agreement, or Conveyance (as the Case requires) ; and the Messenger or other

other Person acting under the Warrant may take and deliver Possession accordingly, and for that Purpose may remove from Possession the Bankrupt and every Person claiming under him.

Agreement for Purchase. 1849, s. 146. 1866, § 217.

187. Where before Adjudication the Bankrupt has entered into an Agreement for the Purchase of any Estate or Interest in Lands, the Vendor thereof, or any Person claiming under him, if the Trustee does not (on being required) elect to complete or to abandon the Agreement, may apply to the Court, and the Court may thereupon order the Trustee to deliver up the Agreement and the Possession of the Property to the Vendor or Person claiming under him, or may make such other Order as the Court thinks fit.

Transfer of Stock. 1849, s. 128. 1866, § 222.

188. Where the Bankrupt has any Government Stock, Funds, or Annuities, or any of the Stock of any public Company in the United Kingdom, standing in his Name, in his own Right, all Persons whose Act or Consent is necessary in this Behalf shall transfer such Stock, Funds, or Annuities into the Name of the Trustee, and pay all Dividends then due or thereafter to accrue due thereon to the Trustee.

Payment of Money by Agent. 1849, s. 132. 1866, § 222.

189. Any Treasurer or other Officer, or any Banker, Attorney, Solicitor, or other Agent of the Bankrupt, shall pay and deliver over to the Trustee all Money and Securities in his Custody, Possession, or Power as such Officer or Agent which he is not by Law entitled to retain as against the Bankrupt or the Trustee.

Order of Court for Payment of Amount admitted on Examination. 1849, s. 123. 1861, s. 111. 1866, § 235.

190. If any Person on Examination before the Court admits that he is indebted to the Bankrupt on the Balance of Accounts, the Court may, if it thinks fit, order him to pay to the Trustee, at such Time and in such Manner as to the Court seems expedient, the Amount admitted, or any Part thereof, either in full Discharge of the whole Amount in question or not, as the Court thinks fit, with or without the Costs of the Examination; provided, that if Part only of the Amount actually due is so admitted, or if the Court does not direct that the Amount ordered to be paid shall be in full Discharge of the whole Amount in question, the Residue over and above the Amount ordered to be paid may be recovered as if there had been no such Admission or Order.

Order and Disposition. 1849, s. 125. 1866, § 234.

191. If the Bankrupt at the Time when he becomes Bankrupt has in his Possession, Order, or Disposition, by the Consent and Permission of the true Owner thereof, any Goods or Chattels whereof he was reputed Owner, or whereof he had taken upon

him the Sale, Alteration, or Disposition as Owner, the Court may order the same to be sold, disposed of, or applied for the Benefit of the Creditors under the Bankruptcy; and, subject to Appeal under this Act, the Order of the Court shall be final and conclusive on all Persons claiming any Interest therein; but nothing herein shall affect any Transfer or Assignment of any Ship or any Share thereof made as a Security for any Debt by way of Mortgage duly registered according to the Enactments relative to the Registration of Ships for the Time being in force.

Conveyances, &c. made by Bankrupt while embarrassed. 1849, s. 126. 1866, § 237.

192. If any Person being insolvent, conveys, assigns, transfers, or pays to any of his Children or to any other Person (except on the Marriage of any of his Children, or for some valuable Consideration,) any Real or Personal Property, Bond, negotiable Instrument, Chose in Action, or Money, and is afterwards adjudged Bankrupt, the Court may order the same to be sold, disposed of, or applied for the Benefit of the Creditors under the Bankruptcy; and, subject to Appeal under this Act, the Order of the Court shall be final and conclusive on all Persons claiming any Interest therein.

Fraudulent Extents in aid. 1849, s. 127. 1866, § 238.

193. If any Real or Personal Property of or Debts due to the Bankrupt is or are extended after he is adjudged Bankrupt by any Person alleging himself to be an Accountant or Debtor to the Crown, the Court may examine on Oath whether the Debt alleged to be due to such Accountant or Debtor was due to him on any Contract originally made between him and the Bankrupt, and if it appears to the Court to be due on any Contract originally made with or in trust for any Person other than such Accountant or Debtor, the Court may order such Real or Personal Property or Debts to be sold for the Benefit of the Creditors under the Bankruptcy, and the Sale shall be valid against the Extent, and all Persons claiming under it, and the Purchaser may recover the Property or Debts purchased by him from any Person detaining the same.

Restriction on Execution of Powers. 1866, § 219.

194. It shall not be lawful for any Person adjudged Bankrupt to execute, either before or after he obtains his Discharge, any Power of Appointment or other Power vested in him, so as to defeat or destroy any contingent or other Estate or Interest in any Property to which he was at or before his Discharge beneficially entitled in default of Appointment or otherwise in case of Non-execution of the Power.

Execution of Powers. 1849, s. 147. 1866, § 218.

195. Powers vested in the Bankrupt which he might legally execute for his own Benefit (except the Right of Nomination to a vacant

vacant Ecclesiastical Benefice) may be executed by the Trustee for the Benefit of the Creditors, as the Bankrupt might have executed the same.

Part XII.—Possession, Collection, and Management of Estate.

Certificate of Office of Provisional Trustee.

196. A Certificate of the Court to which a Provisional Trustee is attached, to the effect that the Provisional Trustee therein named is the sole Trustee of an Estate, shall be Evidence thereof.

Possession by Provisional Trustee. 1861, s. 108.

197. The Provisional Trustee shall, immediately on Adjudication, take possession of the Bankrupt's Estate, and shall retain Possession thereof until Confirmation of the Choice of a Trustee by the Creditors; but if the Provisional Trustee, or if the Court, on the Representation of any Person proving his Debt to the Satisfaction of the Court, is of opinion that the keeping Possession of the Bankrupt's Estate is not requisite for the due Protection of the Creditors, such Possession shall not be continued.

Messenger to follow Instructions of Provisional Trustee. 1854, s. 23.

198. Before Confirmation of the Choice of a Trustee by the Creditors, the Messenger shall follow the Instructions of the Provisional Trustee (subject to the Directions and Control of the Court) with respect to the taking or keeping Possession of any Part of the Bankrupt's Estate.

Rights, Powers, and Duties of Provisional Trustee.

199. Until Confirmation of the Choice of a Trustee by the Creditors, and if and whenever and as long as there is not any Trustee chosen by the Creditors, the Provisional Trustee shall have and perform and may exercise all the Rights, Duties, and Powers by this Act vested in and imposed on the Trustee, and all Provisions of this Act relative to the vesting of the Estate of the Bankrupt, and to the Rights, Duties, and Powers of the Trustee, shall accordingly extend and apply to the Provisional Trustee as from Adjudication and by virtue thereof, but the Provisional Trustee shall in all respects be subject and act according to the Directions (if any) of the Court.

Transfer from Provisional Trustee to Trustee.

200. Immediately on the making of an Order confirming the Choice of Trustee, the Estate of the Bankrupt vested in the Provisional Trustee shall, by virtue of the Order and without any Conveyance or Assignment, be transferred to and become absolutely vested in the Trustee, in trust for the Benefit of the Creditors.

Management, &c. of Estate. 1856, s. 82. 1866, § 206.

201. The Trustee shall get in, recover, and manage the Bankrupt's Estate, and convert the same into Money, according to Directions given by the Creditors at the First Meeting or afterwards from Time to Time, or, in the Absence of such Direction, according to the Directions of the Inspectors.

Evidence of Title.

202. The Order confirming the Choice of the Trustee shall be conclusive Evidence of his Title in all Matters relating to the Bankrupt's Estate.

Delivery of Documents to Trustee. 1849, s. 105. 1866, § 205.

203. The Bankrupt shall, when required, on Oath, deliver up to the Provisional Trustee or Trustee all Books and Documents relating to his Estate in his Possession, Custody, or Power, and discover such as are in the Possession, Custody, or Power of any other Person.

Possession of Books, &c. 1861, s. 121.

204. No Person shall be entitled as against the Provisional Trustee or Trustee to withhold Possession of any Book of Account of the Bankrupt, or to claim any Lien thereon.

Retention of excepted Articles. 1854, s. 25.

205. The Bankrupt may retain for the Use of himself and his Family as excepted Articles such Articles of Household Furniture and Tools, Implements of Trade, and other like Necessaries as he specifies and selects, not exceeding in Value in the whole Ten Pounds, estimated as General Orders direct, (exclusive of the necessary Wearing Apparel of himself, his Wife, and Family), and such excepted Articles shall not be liable to be sold or disposed of in the Bankruptcy, or to be taken in Execution by any Person entitled to prove or claim under the Bankruptcy.

Seizure of Property in Prison, &c. 1849, s. 109. 1866, § 230.

206. Where the Bankrupt is in Prison or in Custody, any Person, acting under Warrant of the Court, may seize any Property of the Bankrupt (other than his necessary Wearing Apparel and excepted Articles) in the Bankrupt's Custody or Possession, or in that of any other Person, in the Prison or in the Place where the Bankrupt is in Custody.

Execution of Warrant. 1849, s. 109. 1866, § 230.

207. Any Person acting under a Warrant of the Court may break open any House, Building, or Room of the Bankrupt, where the Bankrupt is supposed to be, or any Building or Receptacle of the Bankrupt where any of his Property is supposed to be, and seize on his Property there.

208. Where

208. Where the Court is satisfied that there is Reason to believe that Property of the Bankrupt is concealed in a House or Place not belonging to him, the Court may, if it thinks fit, grant a Search Warrant to the Messenger and his Assistants or other Person appointed by the Court, who may execute the same according to the Tenour thereof, and shall in respect of the Execution thereof have the like Protection as is allowed by Law in respect of the Execution of a Search Warrant for Property supposed to be stolen.

Search Warrant.
1849, s. 106.
1866, § 228.

209. A Search Warrant of the Court may in like Manner be executed in Scotland or Ireland, provided—

1. That the Warrant is verified on Oath before, and is backed by, a Justice of the Peace for the County in which or for the Place in or near which it is executed:
2. That the Person bringing the Warrant satisfies the Justice that he is a Person authorized to execute it.

Execution of Search Warrant in Scotland or Ireland.
1849, s. 110, 111.
1866, § 231.

210. Where a Justice of the Peace for the County in which, or for the Place in or near which, a Search Warrant of the Court is to be executed is satisfied that there is Reason to believe that Property to which the Warrant relates is concealed in a House or Place other than that mentioned in the Warrant, the Justice may back the Warrant, describing thereon such other House or Place, and thereupon the Warrant may be executed according to the Tenour thereof as backed.

Execution of Search Warrant in Place not specified.
1859, § 81.

211. Where Distress for Rent is levied on the Property of the Bankrupt after the Act of Bankruptcy on which Adjudication is made, or such Distress levied before that Act of Bankruptcy is not sold until after that Act, whether such Levy or Sale is made before or after the filing of the Petition for Adjudication, the same shall not be available for more than One Year's Rent accrued due before the Day of such filing (without Prejudice to the Right to prove for any Rent due for which Distress is not so available); and where such Distress is not sold before Notice of the Adjudication is gazetted, or before the Person distraining has Notice of the Adjudication (whichever first happens), the Distress shall not be sold except with the Leave of the Court, and the Costs of the obtaining of such Leave shall be paid out of the Bankrupt's Estate, unless the Court otherwise directs.

Effect of Distress for Rent.
1849, s. 129.
1866, § 242.

212. If any Person without reasonable Excuse (Proof whereof shall lie on him) conceals Property of the Bankrupt, and does not within Forty-two Days after Notice of Adjudication is gazetted, discover the same to the Court or to the Trustee, he shall be liable

Concealing Bankrupt's Property.
1849, s. 269.
1866, § 236.

to forfeit double the Value of the Property concealed, and a Sum not exceeding One hundred Pounds.

Reward for Discovery of Property. 1849, s. 269. 1866, § 236.

213. If any Person, after the Expiration of Forty-two Days after Notice of Adjudication is gazetted, voluntarily discovers to the Court or to the Trustee Property of the Bankrupt not known to the Trustee, he shall be entitled to receive thereout as Reward One Twentieth Part of the Amount or Value thereof, and such further Sum (if any) as the Creditors think fit.

Suits for and Application of Forfeitures. 1849, s. 275. 1866, § 323.

214. A Forfeiture under this Act may be sued for in any Court of competent Jurisdiction by the Trustee of the Estate of the Bankrupt in relation to whom or whose Estate the Forfeiture is incurred, and the Amount recovered, after Deduction of the Expenses of Recovery, shall be applied as Part of the Bankrupt's Estate, after Exhaustion of other Assets, and any Surplus thereof after Payment of the Creditors in full shall be paid to the Court of Bankruptcy Fee Account.

Post Letters addressed to Bankrupt. 1849, s. 124. 1866, § 194.

215. The Court may from Time to Time order that, for such Time as the Court thinks fit, not exceeding Three Months from the Date of the Order, Post Letters addressed to the Bankrupt shall be re-addressed, sent, or delivered to the Provisional Trustee or otherwise as the Court directs, and the same shall be done accordingly.

Management of Estate by Bankrupt. 1849, s. 150.

216. The Trustee may, with the Approbation of the Creditors, appoint the Bankrupt himself to superintend the Management of the Estate, or to carry on the Trade (if any) for the Benefit of the Creditors, and in any other respect to aid in administering the Estate in such Manner and on such Terms as the Creditors direct.

Compromise, Arbitration, &c. 1849, s. 153. 1866, § 249.

217. The Trustee, with the Consent of the Creditors, or under the Direction of the Inspectors, or with the Approval of the Court, may give Time for Payment of any Debt due to the Bankrupt, and may accept Payment of or for any such Debt by Instalments, Composition, or otherwise, and may compromise any Action or Suit, and may submit any Question to Arbitration; and with respect to any Debt, Matter, or Question of less Amount or Value than Twenty Pounds the Trustee may exercise the Powers of this Section without any such Consent, Direction, or Approval, unless in any Case the Creditors otherwise direct.

218. The

Actions and Suits by Trustee.
1849, s. 153.
1866, § 249.

218. The Trustee, with the Consent of the Creditors, may commence or prosecute, and with the like Consent, or under the Direction of the Inspectors, or with the Approval of the Court, may defend any Action or Suit which the Bankrupt might have commenced or prosecuted or defended; and the Costs of the Trustee in or about such Action or Suit, when taxed, shall be allowed out of the Bankrupt's Estate.

Adjudication on adverse Claims to Property.
9 & 10 Vict. c. 95. s. 118.
1866, §§ 243, 245.

219. If any Claim is made to or in respect of any Property forming Part of the Bankrupt's Estate, or the Proceeds or Value thereof, the Court having Jurisdiction in the Bankruptcy may, on the Application of the Trustee, summon the Claimant, and may stay any Action pending in any Superior or other Court in respect of such Claim, and that Court or any Judge thereof, or if the Court is one of the Superior Courts of Law then a Judge of any of those Courts, on Proof of the Issue of such Summons and that the Property in question is Part of the Bankrupt's Estate, may order the Party bringing such Action to pay the Costs of all Proceedings had therein after the Issue of such Summons.

Adjudication on Claim.

220. In every such Case the Court having Jurisdiction in the Bankruptcy shall adjudicate on the Claim and make such Order between the Parties in respect thereof as to the Court seems just.

Suits by Trustee and Bankrupt's Partners.
1849, s. 152.
1866, § 250.

221. Where a Member of a Partnership is adjudged Bankrupt, the Court may authorize the Trustee, with Consent of the Creditors, to commence and prosecute any Action or Suit in the Names of the Trustee and of the Bankrupt's Partner; and any Release by such Partner of the Debt or Demand to which the Action or Suit relates shall be void; but Notice of the Application for Authority to commence the Action or Suit shall be given to such Partner, and he may show cause against it, and on his Application the Court may, if it thinks fit, direct that he shall receive his proper Share of the Proceeds of the Action or Suit, and if he does not claim any Benefit therefrom he shall be indemnified against Costs in respect thereof as the Court directs.

Non-abatement of Actions, &c. by Change in Trustee.
1849, s. 157.
1866, § 252.

222. Where a Trustee dies or is removed any Action or Suit shall not be thereby abated or made defective, but the Court in which the same is pending may, on a Suggestion or Allegation thereof and of the Appointment of a new Trustee, allow the Name of the new Trustee to be substituted for that of the former Trustee, and the Action or Suit may be continued as if the new Trustee had originally been Party thereto instead of the former Trustee.

 223. In

Payment of Money into Court.
1849, s. 158.
1866, § 253.

223. In any Action or Suit brought by the Trustee for Money due to the Bankrupt's Estate, the Defendant may, after Notice to the Trustee, pay the same or any Part thereof into the Court in which the Action or Suit is brought, and shall be discharged thereby from the Money paid in; and if the Time allowed to the Bankrupt for applying to annul the Adjudication has not then expired all Proceedings in the Action or Suit with respect to that Money shall thereupon be stayed until the Expiration of that Time; and if the Bankrupt duly applies to annul the Adjudication and duly prosecutes his Application, the Money shall, as between the Trustee and the Person adjudged Bankrupt, abide the Event of the Application, and be paid out of Court accordingly; but if the Bankrupt does not duly make or duly prosecute such Application the Money shall be paid out of Court to the Trustee forthwith.

Indemnity for Payments in Actions, &c.
1849, s. 155.
1866, § 251.

224. Where the Trustee recovers by Action or Suit any Real or Personal Property or Money from any Person, and the Adjudication is afterwards annulled, every such Person is hereby discharged from all Demand in respect of such Property or Money by the Person adjudged Bankrupt or any Person claiming under him.

Indemnity for Payments without Action, &c.
1849, s. 155.
1866, § 251.

225. Where any Person, without Action or Suit, in good Faith delivers up any Real or Personal Property to the Trustee, or pays any Money claimed by him, and the Adjudication is afterwards annulled, every such Person is hereby discharged from all Demand in respect of such Property or Money by the Person adjudged Bankrupt or any Person claiming under him, provided the Person making such Delivery or Payment had not at the Time of making the same Notice of any Proceeding taken for the Purpose of annulling the Adjudication.

Life Estates in Remainder, &c.
1861, s. 115.
1866, § 220.

226. Where a Non-trader adjudged Bankrupt is entitled under a Settlement or Will to a Life Estate, in remainder expectant on the Death of a previous Tenant for Life, with any Remainder over to the Bankrupt's Issue, or the Heirs of his Body, or any of them, as Purchasers, the Bankrupt's Life Estate shall not be sold or disposed of before it falls into Possession, without an express Direction of the Court.

Bankrupt to join in Conveyances.
1849, s. 148.

227. The Court, on the Application of the Trustee, or of a Purchaser of Part of the Bankrupt's Estate, may, if it thinks fit, order the Bankrupt to join in any Conveyance; and if the Bankrupt fails to execute such Conveyance within the Time directed by the Order, he, and all Persons claiming under him, shall be estopped from objecting

objecting to the Validity of the Conveyance, and all Right or Title which the Bankrupt had in or to the Property comprised therein shall be as effectually barred by the Order as if the Conveyance had been executed by him.

Restriction on Impeachment of Title.
1849, s. 131.
1866, § 223.

228. The Title to any Real or Personal Property sold under the Bankruptcy shall not be impeached by the Bankrupt, or any Person claiming under him, by reason only of any Defect in the Petition for Adjudication, or in the Adjudication, or in any Proceeding thereunder, unless the Bankrupt, within the Time allowed by this Act, has commenced Proceedings to annul the Adjudication and has duly prosecuted the same.

Power to mortgage or pledge Bankrupt's Property.
1861, s. 133.
1866, § 232.

229. If the Creditors, at a Special Meeting comprising Three Fourths in Value of the Creditors who have proved, resolve that the Bankrupt's Debts or Part thereof can be discharged by means of Money to be raised by Mortgage or Pledge of his Property, or Part thereof, the Trustee, with the Approval of the Court, may execute such Mortgage or Pledge, with or without Powers of Sale and other Powers, and in such Manner as the Court directs, and the Court may order the Execution of such Mortgage or Pledge by any other necessary Parties, and give all necessary Directions for the Purpose of carrying into effect the Resolution of the Creditors.

Power to sell Book Debts, Goodwill, &c.
1861, s. 137.
1866, § 232.

230. At any Time after the Expiration of Twelve Months from Adjudication, or sooner with the Approval of the Court, the Trustee may sell by Auction or Tender or, with the Approval of the Court, by private Contract, all or any of the Book Debts due or growing due to the Bankrupt, and the Books relating thereto, and the Goodwill of his Trade or Business, and assign the same to the Purchaser, and such Purchaser may, by virtue of the Assignment, sue for and recover in his own Name the Debts assigned to him.

Disposition of Crop, Manure, &c.
1849, s. 144.

231. Where the Bankrupt is engaged or employed in Husbandry on Land let to Farm, the Trustee, or any Purchaser from him, shall not take, use, or dispose of any Hay, Straw, Grass, Turnips, Roots, or other Produce of the Land, or any Manure, Compost, Ashes, Seaweed, or other Dressing intended for the Land, and being thereon, in any other Manner or for any other Purpose than the Bankrupt ought to have taken, used, or disposed of the same if he had not been adjudged Bankrupt.

Transfer of Estates, &c. to Provisional

232. All Real and Personal Property at the Commencement of this Act vested in, held or recoverable by, any Person as Official Assignee of the Court of Bankruptcy, and all Rights and Interests therein,

Trustee in London.

therein, and all Powers and Duties relating thereto, vested in, exerciseable by, or imposed on any Person as Official Assignee shall (subject to the Provisions of this Act) continue and be vested in, held or recoverable by, exerciseable by, and imposed on the same Person as Provisional Trustee of the Court of Bankruptcy, save that as regards the Person who is such Official Assignee, and who also holds the Office of Provisional and Official Assignee of the Estates and Effects of Insolvent Debtors, all such Property, Rights, Interests, Powers, and Duties as aforesaid shall be transferred to, and shall thereupon be vested in, held or recoverable by, exerciseable by, and imposed on a Provisional Trustee or Provisional Trustees of the Court of Bankruptcy in London as the Lord Chancellor directs.

Provision for subsequent Transfers on Discharge of Creditors' Assignee.

233. In Cases pending at the Commencement of this Act, where from Time to Time, if this Act had not been passed, any Person as Official Assignee of the Court of Bankruptcy for the London District would, in consequence of a Creditors' Assignee having obtained an Order of Discharge, have represented the Estate of a Bankrupt as the sole Assignee thereof, the same Person, or his Successor in Office, as Provisional Trustee of the Court of Bankruptcy in London, shall be the sole Trustee of the Estate, and shall have and exercise in relation thereto all the Rights, Duties, Powers, and Authorities that would have been vested in and exerciseable by an Official Assignee of that Court if this Act had not been passed; and with respect to such Cases pending at the Commencement of this Act, the Provisional Trustee or Provisional Trustees of a Country District Court of Bankruptcy as such shall be in the same Position in all respects as an Official Assignee of that Court as such was in immediately before the Commencement of this Act; and with respect to Cases so pending, the Registrar of a County Court in his Capacity of Provisional Trustee of that Court shall be in the same Position as he was in immediately before the Commencement of this Act in his Capacity of Official Assignee.

Protection of Purchasers. 1849, s. 134. 1866, § 240.

234. Any Purchase from or other Dealing with the Bankrupt in good Faith and for valuable Consideration, where the Person purchasing from or dealing with the Bankrupt had at the Time of such Purchase or Dealing Notice of an Act of Bankruptcy committed by the Bankrupt, shall not be impeached by reason thereof unless a Petition for Adjudication is filed within Twelve Months after such Act of Bankruptcy.

Protection of Payments, &c. without

235. The following Payments, Conveyances, Contracts, Dealings, Transactions, Executions, and Attachments shall be valid notwithstanding

standing any prior Act of Bankruptcy committed by the Bankrupt; that is to say,— Notice of Act of Bankruptcy.

Every Payment by or on behalf of the Bankrupt to any of his Creditors, and every Payment to him, and every Conveyance for valuable Consideration by him, and every Contract, Dealing, and Transaction by and with him, and every Execution and Attachment against his Lands executed by Seizure, and every Execution and Attachment against his Goods and Chattels executed and levied by Seizure and Sale, provided— 1849, s. 133. 1866, § 239.

1. That the Payment, Conveyance, Contract, Dealing, Transaction, Execution, or Attachment was bonâ fide made, executed, or entered into, executed by Seizure, or executed and levied by Seizure and Sale before the filing of the Petition for Adjudication:

2. That the Person to, by, or with whom every such Payment, Conveyance, Contract, Dealing, or Transaction was made, executed, or entered into, or at whose Suit, or on whose Account every such Execution or Attachment was issued, had not at the Time of such Payment, Conveyance, Contract, Dealing, or Transaction, or at the Time of the executing or levying of such Execution or Attachment, or at the Time of the making of any Sale thereunder, Notice of any prior Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him;

But nothing herein shall give Validity to any Payment, Delivery, Transfer, Conveyance, or Mortgage constituting a fraudulent Preference, or to any Execution founded on a Judgment on a Warrant of Attorney or Cognovit Actionem, or Judge's Order obtained by Consent, constituting a fraudulent Preference.

236. Where any Person having in his Possession or Custody any Money or Personal Property which at the Time of the Deposit thereof in his Possession or Custody belonged to the Bankrupt, pays or delivers the same to the Bankrupt or to his Order, such Payment or Delivery (even if made after Adjudication) shall not be impeached as against the Person making the same, provided— Protection of Payments, &c. by Depositees of Bankrupt's Property. 1 Jac. 1. c. 15. s. 14. 56 Geo. 3. c. 137. 6 Geo. 4. c. 16. s. 84.

1. That the Payment or Delivery is made before Notice of Adjudication is gazetted:

2. That the Person making such Payment or Delivery had not at the Time of making the same Notice of an Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him.

237. The following Instruments given or entered into by the Bankrupt, whether in contemplation of Bankruptcy or not, shall be void Certain Warrants of Attorney,

&c. within Two Months of Petition void.
1849, s. 135.
1866, § 246.

void if at the Time of the Bankrupt giving or entering into the same he was unable to meet his Engagements with his Creditors; namely,—

1. Every Warrant of Attorney to confess Judgment in a Personal Action given within Two Months before the filing of the Petition for Adjudication, and being (wholly or in part) for or in respect of an antecedent Debt or Money Demand:
2. Every Cognovit actionem or Consent to a Judge's Order for Judgment or Agreement to allow Judgment to pass by Default on an Undertaking by the Plaintiff not to issue or to postpone issuing Execution thereon, which (after the Commencement of this Act) within Two Months before the filing of the Petition for Adjudication is given or entered into in an Action commenced by Collusion with the Bankrupt and not adversely, or purports to be given or entered into in an Action but is in fact given or entered into before the Commencement of any Action.

Part XIII.—Proof.

Proof, notwithstanding prior Act of Bankruptcy.
1849, s. 165.
1866, § 156.

238. Every Person with whom the Bankrupt has before the filing of the Petition for Adjudication contracted a Debt, and every Person to whom the Bankrupt has before that Time become liable in respect of a Demand, may, notwithstanding any prior Act of Bankruptcy, prove the Amount of such Debt or Demand, provided he had not at the Time when the Debt was contracted or the Liability was incurred Notice of any Act of Bankruptcy committed by the Bankrupt and then available for Adjudication of Bankruptcy against him.

Set off.
1849, s. 172.
1866, § 159.

239. Where mutual Credit has been given by the Bankrupt and any other Person,—or where there are mutual Debts between the Bankrupt and any other Person,—or where any Person entitled to prove in respect of any Debt or Demand is indebted or liable to the Bankrupt in respect of any Debt or Demand,—the Account between the Bankrupt and such Person shall be stated, and one Debt or Demand may be set against another, notwithstanding any Act of Bankruptcy committed by the Bankrupt before the Credit given to or Debt contracted or Liability incurred by him; and no more than what appears due on either Side on the Balance of Account shall be claimed or paid on either Side; provided such Person had not at the Time of the Credit given to or Debt contracted or Liability incurred by the Bankrupt Notice of any Act of Bankruptcy committed by him and then available for Adjudication against him.

240. Where

240. Where a Debt or Sum certain, on which Interest is not reserved or agreed for, is due at the filing of the Petition for Adjudication, and is proveable, the Creditor may prove also for Interest at Four per Centum per Annum, to the Filing of the Petition from the Time when the Debt or Sum was payable, if it was payable by virtue of a written Instrument at a certain Time, or if not, then from the Time when Demand of Payment was made in Writing, with a Notice in Writing that Interest would be claimed from that Demand until Payment. Interest. 1849, s. 180. 1866, § 160.

241. Any Creditor of the Bankrupt in respect of a Debt not payable at the Time of Adjudication (whether on a negotiable Instrument or not) may prove the Debt as if it was payable presently, and receive Dividends, allowing, out of the Dividends, Discount at Five per Centum per Annum from the Declaration of each Dividend until the Time when the Debt is payable. Discount on Dividends for Debts not payable presently. 1849, s. 172. 1866, § 161.

242. Where the Bankrupt has before the filing of the Petition for Adjudication contracted a Debt payable by Instalments, the Creditor may prove for the aggregate Amount of the Instalments unpaid. Debt payable by Instalments. 1861, s. 151. 1866, § 163.

243. Where the Bankrupt is at Adjudication liable as Member or Two or more Partnerships carrying on distinct Trades and having distinct Estates, or as a sole Trader and also as Member of a Partnership, on a Bill of Exchange, Promissory Note, or other negotiable Instrument, or on any Contract, the Creditor to whom the Bankrupt is so liable may prove against each of the Estates on which the Liability attaches, notwithstanding that at the Time when the Liability accrued he had Notice of the Connexion between the Partnerships, or between the sole Trader and the Partnership. Double Proof. 1861, s. 152. 1866, § 166.

244. A Person entitled to enforce against the Bankrupt Payment of any Money, Costs, or Expenses by Process of Contempt issuing out of any Court may prove for the Amount payable under the Process, subject to such ascertaining of the Amount as may be properly had, by Taxation or otherwise. Proof for Money, &c. enforceable by Process of Contempt. 1859, § 108, 1861, s. 149.

245. Where the Bankrupt is liable to pay a Rent, or to make any other Payment, falling due at fixed Periods, and the Adjudication happens at a Time other than One of those Periods, the Person entitled to the Rent or Payment may prove for a proportionate Part thereof up to the Day of Adjudication as if it grew due from Day to Day. Proof for Rent, &c. 1861, s. 150. 1866, § 164.

Bottomry Respondentia and Insurance. 1849, s. 174. 1866, § 167.

246. The Obligee in a Bottomry or Respondentia Bond, and the Assured in a Policy of Insurance, made on good or valuable Consideration, may claim under the Bankruptcy of the Obligor or Insurer, and after the Loss or Contingency has happened may prove and receive Dividends, as if the Loss or Contingency had happened before the filing of the Petition for Adjudication.

Proof by Agents effecting Policies on Ships, &c. 1849, s. 174. 1866, § 167.

247. Where a Policy of Insurance on a Ship or on Goods has been effected with the Bankrupt (as a Subscriber or Underwriter) the Person effecting the Policy may prove in respect thereof, although he was not beneficially interested in the Ship or Goods, provided the Person so interested is not within the United Kingdom, the Channel Islands, or the Isle of Man.

Premiums on Policies and other periodical Payments. 1861, s. 154. 1866, § 168.

248. If the Bankrupt is at Adjudication liable on a Covenant, Contract, or Promise to pay Premiums on a Policy of Insurance, or to make any other periodical Payment, or to repay to any Person or indemnify any Person against any such Payment, the Person entitled to the Benefit of the Covenant, Contract, or Promise may prove for the Value of the Bankrupt's Liability thereunder (estimated as the Court directs).

Debt payable on Contingency. 1849, s. 177. 1866, § 169.

249. Where the Bankrupt has before the filing of the Petition for Adjudication contracted a Debt payable on a Contingency which has not happened before the filing of the Petition, the Creditor may, before the Contingency happens, prove for the Value of the Debt (estimated as the Court directs) and receive Dividends, or may, after the Contingency happens, prove for the Debt and receive Dividends not disturbing former Dividends, provided he had not at the Time when the Debt was contracted Notice of an Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him.

Contingent Liability and unliquidated Damages. 1849, s. 178. 1861, s. 153. 1866, §§ 169, 170.

250. Where the Bankrupt has before the filing of the Petition for Adjudication contracted a Liability to pay Money on a Contingency which has not happened before the filing of the Petition, or the Bankrupt is at Adjudication liable on a Contract or Promise to a Demand in the Nature of Damages, and the Demand in respect of such Liability is not ascertained before the filing of the Petition, then, if the Liability is not proveable under any other Provision of this Act, the Person with whom the Liability has been contracted may claim for such Sum as the Court thinks fit, and after the Contingency has happened, or the Right to recover Damages has accrued, and the Demand has been ascertained, may prove in respect thereof, and receive Dividends, as nearly as may be as if the Contingency

Contingency had happened, or the Right to recover Damages had accrued, and the Demand had been ascertained, before the filing of the Petition, not disturbing former Dividends, provided—

1. That the Claimant had not at the Time when the Liability was contracted Notice of any Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him:
2. That in case the Claim is not wholly or in part converted into a Proof within Six Months from the filing of the Petition it may at any Time thereafter be expunged wholly or in part if the Court thinks fit:

And if in any such Case the Damages have not been and cannot be otherwise liquidated or ascertained, the Court may, by Consent of all necessary Parties, assess the Damages, or, if all necessary Parties do not consent, may, on Application of the Trustee, or of the Person to whom the Bankrupt is liable, direct the Damages to be assessed by a Jury, either before the Court itself, or in a Superior Court of Law, and may give all necessary Directions for that Purpose.

Annuity Creditor. 1849, s. 175. 1866, § 171.

251. An Annuity Creditor of the Bankrupt (by whatever Assurance the Annuity is secured), whether there were or not any Arrears due at the filing of the Petition for Adjudication, may prove for the Value of the Annuity (estimated as the Court directs), regard being had to its original Price and to the Diminution in its Value caused by Lapse of Time.

Sureties and Persons liable for Debts of Bankrupt. 1849, s. 173. 1866, § 173.

252. Where any Person is at the Time of the filing of the Petition for Adjudication Surety or liable for any Debt or Liability of the Bankrupt, and pays or satisfies the Debt or Liability, or any Part thereof in discharge of the whole, although he does so after the filing of the Petition, the following Provisions shall have Effect:

(1.) If the Creditor has proved, the Surety or Person liable may stand in his Place in respect of the Proof:

(2.) If the Creditor has not proved, the Surety or Person liable may prove for the Payment made by him as a Debt, not disturbing former Dividends, and may receive Dividends;—

although in either Case such Person became Surety or liable after an Act of Bankruptcy committed by the Bankrupt, provided he had not at the Time when he became Surety or liable Notice of any Act of Bankruptcy committed by the Bankrupt and then available for Adjudication against him.

Sureties for Annuities. 1849, s. 176. 1866, § 172.

253. It shall not be lawful for any Person entitled to an Annuity granted by the Bankrupt to sue any Person who is Surety for Payment

Payment thereof, until the Annuitant has proved under the Bankruptcy for the Value of the Annuity and for the Arrears thereof; and if the Surety after such Proof pays the Amount proved, he shall be thereby discharged from all Claims in respect of the Annuity; and if the Surety does not (before any Payment of the Annuity subsequent to the filing of the Petition for Adjudication becomes due) pay the Amount proved, he may be sued for the accruing Payments of the Annuity, until the Annuitant (either by Dividends under the Bankruptcy or by Payments from the Surety) has received the Amount proved, with Interest at Four per Centum per Annum, from the Time of Notice to the Surety of the Proof and of the Amount thereof; and after such Receipt by the Annuitant the Surety shall stand in his Place in respect of such Proof for the Amount received by the Annuitant from the Surety; and the Bankrupt's Order of Discharge shall discharge him from all Claims of the Annuitant or of the Surety in respect of the Annuity.

Bankrupt Member of a Company. 25 & 26 Vict. c. 89.

254. Where the Bankrupt is at the Time of Adjudication a Member of a Company registered under The Companies Act, 1862, and not in the Course of being wound-up under that Act, he shall be by virtue of the Adjudication absolutely discharged from all Liability in respect of such Membership, and shall be deemed to have ceased to be a Member as from the Date of Adjudication; and the Company may prove under the Bankruptcy for the Amount of Calls made before the Adjudication in respect of the Shares held by the Bankrupt, and not paid, and may claim for the Value (estimated as the Court directs) of the Liability to Calls in respect of such Shares to be made within One Year after the Adjudication.

Proof for Costs. 1849, s. 181. 1866, § 162.

255. Every Person who under a Verdict, Judgment, Decree, Order, or Rule, in or of a Court of Law or of Equity, or other Court, or in Lunacy, obtained before the Adjudication, would have been entitled to recover Costs from the Bankrupt if he had not been adjudged Bankrupt, may prove for the Amount of such Costs when taxed, although the Taxation is not had before Adjudication.

Creditor proving to relinquish Action, &c. 1849, s. 182. 1866, § 158.

256. A Creditor who has brought an Action or instituted a Suit against a Bankrupt in respect of a Debt or Demand proveable under the Bankruptcy shall not prove or claim thereunder in respect of that Debt or Demand without first relinquishing the Action or Suit: Provided always, as follows:

(1.) Such Creditor shall not be liable by reason thereof to pay the Bankrupt's Costs of the Action or Suit; but, if the Court thinks

thinks fit, he may prove or claim for the Costs incurred by him in such Action or Suit up to the Date of Adjudication subject to Taxation :

(2.) Where the Action or Suit is against the Bankrupt jointly with any other Person, the Relinquishment thereof as against the Bankrupt shall not affect the Action or Suit as against such other Person :

(3.) If the Petition is dismissed or the Adjudication is annulled, the Creditor may proceed in the Action or Suit as if he had not proved or claimed.

Proof to be deemed Election. 1849, s. 182. 1866, § 158.

257. The proving or claiming of a Debt or Demand under the Bankruptcy shall be deemed an Election by the Creditor to take the Benefit of the Adjudication with respect to that Debt or Demand; and the Court may, if it thinks fit, accordingly restrain any Action, Suit, or Proceeding by that Creditor in contravention of this Section.

Procedure for Proof.

Mode of Proof of Debts. 1861, s. 144.

258. A Creditor may prove his Debt by delivering or sending through the Post to the Trustee, or by delivering to the Registrar at a Meeting of Creditors, a Statement of his Debt and of the Account, if any, between him and the Bankrupt, with a Declaration signed by the Creditor appended thereto, to the Effect that such Statement is a true and complete Statement of Account between him and the Bankrupt, and that the Debt thereby appearing to be due from the Bankrupt's Estate to the Creditor is justly due, such Declaration being witnessed by a Person authorized to administer Oaths for Purposes of this Act, or by a Solicitor, or by the Trustee, or by a Messenger of the Court.

Proof by Companies, &c. 1861, s. 144.

259. A Company or other Body incorporated or authorized to sue may prove their Debt by an Agent, who shall in his Declaration declare that he is such Agent, and that he is authorized by the Company or Body to make such Proof, and that it is within his own Knowledge that the Debt was incurred and for the Consideration stated, and that to the best of his Knowledge and Belief the Debt is unpaid and unsatisfied.

False Declaration Misdemeanour. 1861, s. 145. 1866, § 317.

260. If any Person wilfully and corruptly makes a Declaration for Proof knowing the same or the Statement of Account to which it is appended to be untrue in any material Particular, he shall be guilty of a Misdemeanour, and on Conviction thereof shall be liable at the Discretion of the Court before which he is convicted to a Penalty not exceeding One hundred Pounds or to be imprisoned,

with or without Hard Labour, for any Term not exceeding One Year.

Proof in Court or in Chambers, &c. 1861, s. 146.

261. A Creditor may also prove his Debt by Deposition in Court or in Chambers, or before a Registrar at a Meeting of Creditors, or by Affidavit; and such Proof may be on his own Oath, or on that of any Agent or Clerk or other Person in his Employment, who shall in his Deposition or Affidavit set forth that he is authorized by his Principal or Employer to make the Proof, and that it is within his own Knowledge that the Debt was incurred, and for the Consideration stated, and that to the best of his Knowledge and Belief the Debt is unpaid and unsatisfied.

Examination on Oath of alleged Creditor, &c. 1861, s. 148.

262. The Court may, on the Application of the Trustee, or of any Creditor, or of the Bankrupt, or without any Application, summon and examine on Oath or otherwise any Person tendering or making or who has made a Declaration, Deposition, or Affidavit for Proof, and any Person capable of giving Evidence concerning a Proof or a Debt sought to be proved, and where a Proof has been or is sought to be made by Declaration, the Trustee may, if he thinks fit, require the same to be made by Deposition or Affidavit.

Examination of Statements of Account, and List of Creditors. 1861, s. 147.

263. The Trustee shall examine all Declarations, Depositions, Affidavits, and Statements of Account for Proof, and compare the same with the Books and Documents of the Bankrupt, and shall from Time to Time make out a List of the Creditors who have proved, stating the Amount and Nature of the Debts, which List shall be filed in the Court and shall be open to the Inspection of any Creditor who has proved.

Expunging or Reduction of Proof. 1861, s. 155.

264. The Court may at any Time expunge or reduce a Proof on such Application and such Evidence as it thinks sufficient; and for that Purpose may summon and examine on Oath or otherwise the Person who has proved and every Person capable of giving Evidence concerning the alleged Debt.

Part XIV.—Dividends; Preferential Payments; Allowances; Surplus.

Dividends.

Times, &c. for Dividends.

65. The Trustee shall from Time to Time declare and make Dividends of the Bankrupt's Estate according to such Directions as the Creditors give at the First Meeting or afterwards, and in the Absence of any such Direction, then according to the Directions of the

the Inspectors, and if there is no Inspector then according to General Orders.

Provision for Creditors residing at a Distance and pending Claims. 1861, s. 176.

266. In the Calculation of a Dividend it shall be obligatory on the Trustee to make Provision for Debts appearing from the Bankrupt's Statement of Account, or otherwise, to be due to Persons resident in Places so distant from the Court that in the ordinary Course of Communication they have not had sufficient Time to tender their Proofs, or to establish them if disputed, and also for Debts, the Subject of Claims disputed, and not yet determined by the Court.

Joint and separate Dividends. 1861, s. 177.

267. Where joint and separate Estates are being administered, and the Court does not otherwise direct, Dividends of the joint and separate Estates shall be declared together, and Gazette Notices respecting such Dividends shall be given in the same Advertisement; and the Expenses of and incident to the Meetings respecting such Dividends shall be fairly apportioned by the Trustee between the joint and separate Estates, regard being had to the Work done for and the Benefit received by each Estate, and One Charge only shall be allowed to the Solicitor to the Trustee in respect of any such Meeting.

Order for Dividend.

268. If on any Audit of the Trustee's Accounts there appears to be net Produce of the Bankrupt's Estate in hand sufficient to pay to the Creditors who have proved a Dividend of One Shilling in the Pound or more, and there is no existing Direction of the Creditors to the contrary, the Court may, if it thinks fit, order a Dividend to be made, of such Amount as the Court directs.

Dividends of secured Creditor. 1856, s. 59. 1866, § 175.

269. If a Creditor holds a Security for his Debt or any Part thereof on the Bankrupt's Property, he shall (unless he gives up his Security) be reckoned a Creditor for the Purpose of Dividends in respect of the Balance only of his Debt after selling or disposing of his Security or giving Credit for the Value thereof, estimated as General Orders direct, and subject thereto as the Court directs or approves.

Dividends of Execution Creditors. 1849, s. 184. 1866, § 174.

270. A Creditor having levied Execution on or having by virtue of any Custom or otherwise made an Attachment of the Personal Property of the Bankrupt or any Part thereof, shall not receive thereby more than a rateable Part of the Debt, unless the Property seized or attached is actually sold before the filing of the Petition for Adjudication.

On Bankruptcy of Partner Dividends of joint Creditors.
1849, s. 140.
1866, § 178.

271. Where the Bankrupt is a Member of a Partnership, a Creditor (whether the Petitioning Creditor or not) to whom he is indebted jointly with the other Partners, or any of them, shall not receive any Dividend out of the separate Estate of the Bankrupt until the separate Creditors have been paid in full.

No Action for Dividend.
1849, s. 190.
1866, § 272

272. An Action for a Dividend shall not lie against the Trustee, but if the Trustee refuses to pay any Dividend the Court may, if it thinks fit, order Payment thereof with Interest payable by the Trustee personally for the Time that it is withheld, and with the Costs of the Application.

Preferential Payments.

Rates and Taxes.
1849, s. 166.
1861, s. 150.
1866, § 257.

273. The Trustee shall pay, out of the Bankrupt's Estate, all Parochial and other Local Rates due from him at Adjudication and having become due and payable within Six Months next before Adjudication, and all Assessed Taxes, Land Tax, and Property or Income Tax assessed on him at Adjudication, up to the Fifth Day of April next after Adjudication (not exceeding in the whole One Year's Assessment), and the Bankrupt shall not be liable to be assessed to Taxes after that Fifth Day of April in respect of any Article kept and used for the Purposes of Trade at or before Adjudication, and seized, surrendered, and sold under the Bankruptcy, and not kept or used by the Bankrupt after that Fifth Day of April.

Wages and Salaries of Servants and Clerks.
1849, s. 168.
1866, § 260.

274. Where at the Time of the filing of the Petition for Adjudication the Bankrupt was indebted to any Servant or Clerk for Wages or Salary, the Trustee, on Proof thereof, shall pay so much as is due, not exceeding Three Months Wages or Salary and not exceeding Thirty Pounds, to such Servant or Clerk out of the Bankrupt's Estate, and such Servant or Clerk may prove for any Sum exceeding that Amount.

Wages of Labourers and Workmen.
1849, s. 169.
1866, § 260.

275. Where at the Time of the filing of the Petition for Adjudication the Bankrupt was indebted to any Labourer or Workman of the Bankrupt in respect of his Wages or Labour, the Trustee, on Proof thereof, shall pay so much as is due, not exceeding One Month's Wages, to such Labourer or Workman out of the Bankrupt's Estate, and such Labourer or Workman may prove for any Sum exceeding that Amount.

Indenture of Apprenticeship.
1849, s. 170.
1866, § 261.

276. Where at the Time of the filing of the Petition for Adjudication any Person is apprenticed to the Bankrupt, the Adjudication shall be a complete Discharge of the Indenture of Apprenticeship, and

and if any Money has been paid by or on behalf of such Apprentice to the Bankrupt as an Apprentice Fee, the Court, on Proof thereof, may, if it thinks fit, order such Sum as the Court thinks reasonable to be paid out of the Bankrupt's Estate to or for the Use of the Apprentice, regard being had to the Amount paid by him or on his Behalf and to the Time during which he served with the Bankrupt under the Indenture before the filing of the Petition for Adjudication, and to the other Circumstances of the Case.

Allowances.

Allowance to Bankrupt for Maintenance or Service.
1849, s. 194.
1866, § 276.

277. The Trustee with the Consent of the Creditors, or under the Direction of the Inspectors, may from Time to Time make such Allowance to the Bankrupt out of his Estate, until he has passed his last Examination, as the Trustee thinks necessary for the Support of the Bankrupt and his Family, or in consideration of his Services if he is engaged in winding up his Estate; but such Allowance shall not be made for any Period after the Adjournment of the last Examination sine die except with Leave of the Court; and the Court may at any Time make an Order for such Allowance to the Bankrupt out of his Estate as appears to the Court just and reasonable.

Allowance in proportion to Dividend.
1849, s. 195.
1859, § 86.
1866, § 277.

278. Every Bankrupt whose Order of Discharge has taken Effect shall be allowed and paid the following Allowance:

If the Net Produce of his Estate in Hand will (with any prior Dividend) pay the Creditors who have proved Ten Shillings in the Pound, he shall be allowed and paid out of such Produce Five per Centum, not exceeding Four hundred Pounds;

If such Produce will (with any prior Dividend) pay such Creditors Twelve Shillings and Sixpence in the Pound, he shall be allowed and paid as aforesaid Seven and a Half per Centum, not exceeding Five hundred Pounds;

If such Produce will (with any prior Dividend) pay such Creditors Fifteen Shillings in the Pound or more, he shall be allowed and paid as aforesaid Ten per Centum, not exceeding Six hundred Pounds;

And every such Allowance shall be payable to the Bankrupt forthwith after his Order of Discharge takes effect, in case the Dividends paid to the Creditors who up to that Time have proved are of the requisite Amount in this Section mentioned, and if, when the Order of Discharge takes effect, the Dividends paid do not amount to Ten Shillings in the Pound, the Court may allow the Bankrupt so much as the Court thinks fit, not exceeding Three per Centum and not exceeding Three hundred Pounds.

Allowance in case of Partnership. 1849, s. 196. 1866, § 278.

279. In case of a joint Petition for Adjudication, under which any Partner has obtained his Order of Discharge, if a sufficient Dividend has been paid in the Aggregate on the joint Estate and on the separate Estate of that Partner, he shall be entitled to his Allowance, although a sufficient Dividend has not been paid in the Case of any other Partner.

Surplus.

Payment of Surplus to Bankrupt subject to Interest on Debts. 1849, s. 197. 1866, § 275.

280. If the Produce of the Bankrupt's Estate pays Twenty Shillings in the Pound on the Debts proved and the Costs, Charges, and Expenses of the Bankruptcy, then the Creditors who have proved shall receive Interest on their Debts at the Rate and in the Order following:

1. All Creditors whose Debts by Law carry Interest shall first receive Interest on those Debts as from the filing of the Petition for Adjudication at the Rate reserved or by Law payable or proveable thereon:
2. All other Creditors who have proved shall then receive Interest on their Debts as from the filing of the Petition at Four per Centum per Annum:

And if after such Payment of Interest any Surplus of the Bankrupt's Estate remains, the Court shall order that the same revest in or be paid to the Bankrupt, his Heirs, Executors, or Administrators (according to the Nature thereof or of the Property from the Disposition whereof it arises), and the same shall revest or be paid accordingly as if there had been no Adjudication.

Part XV.—Control of Trustee; Audit; Release.

Trustee to be subject to Orders of Court. 1849, s. 151.

281. The Trustee chosen by the Creditors shall be subject to the Orders of the Court in his Conduct as Trustee, and the Court may at all Times summon and examine the Trustee, and require him to produce, or to pay and deliver over, in accordance with the Provisions of this Act, all Money, Books, and Documents in his Possession, Custody, or Control as Trustee.

Control of Court over Acts of Trustee, &c.

282. Any Act, Direction, Resolution, or Proceeding of the Trustee, or of any Inspector, or of the Creditors, shall be subject to be annulled or varied by the Court on the Application of a Creditor, or of the Trustee, or of an Inspector, and on good Cause shown.

Audit of Trustee's Accounts.

283. The Accounts of the Trustee shall be audited by the Accountant, at such Times and in such Manner as General Orders direct.

284. Any

Taxation of Trustee's Accounts.

284. Any Remuneration awarded to the Trustee shall not be allowed as against the Bankrupt's Estate unless and until the Trustee's Account in respect of such Remuneration has been taxed and settled as General Orders direct, and no such Account shall be allowed on Taxation unless and until the Trustee's Accounts have been duly audited up to the Time of Taxation.

Resolution of Release. 1861, s. 180.

285. The Creditors may, if and when they think fit, by Resolution at a Special Meeting, give to the Trustee chosen by the Creditors a Release in respect of the Bankruptcy; and the Trustee may file the Resolution in the Court; and the Resolution, when filed, shall operate to discharge the Trustee from all Claims and Demands of the Creditors, and of any Person who might have proved under the Bankruptcy, subject to the Conditions (if any) expressed in the Resolution; but the Court may at any Time, on good Cause shown, suspend or annul the Resolution.

On Release, unclaimed Dividends, &c. to be paid into Bank. 1861, s. 181.

286. The Trustee shall, before filing the Resolution of Release, give to the Provisional Trustee a List, signed by him, of unclaimed Dividends on the Estate, and of Debts remaining due to the Estate, and shall lodge Money and negotiable Instruments then in his Hands belonging to the Bankrupt's Estate in the Bank of England to the Account of the Accountant, and the same shall be carried to the Credit of the Estate.

Lodgment in Bank of England and Receipt, &c. 1861, s. 183.

287. The Accountant shall, on the Application of the Trustee, give to him a Certificate stating the Amount and Description of any Money or negotiable Instrument which he is at any Time desirous of lodging in the Bank of England under this Act, and the Governor and Company of the Bank of England shall, on Production of such Certificate, receive such Money or negotiable Instrument, and shall give a Receipt for the same, and shall place the same to the Credit of the Accountant.

Provisional Trustee to act after Release of Trustee. 1861, s. 182.

288. After the filing of the Resolution of Release the Provisional Trustee shall, with respect to any Property of the Bankrupt not realized at the Time of the Resolution and Debts then remaining uncollected or unsold, and any Property coming to the Bankrupt, after the filing of the Resolution, be the sole Trustee of the Bankrupt's Estate, and the same shall vest in the Provisional Trustee accordingly.

Protection of Provisional Trustee in case of annulling. 1849, s. 41.

289. The Provisional Trustee shall not be personally liable for any Act done by him, or done in pursuance of any Order or

Authority given by him, in the Execution of his Duty as Provisional Trustee, notwithstanding that the Bankruptcy is annulled.

Protection of Provisional Trustee respecting Receipt of Money, &c. 1849, s. 41.

290. The Provisional Trustee shall not be personally liable by reason of his having received any Money or negotiable Instrument under a Bankruptcy in his Character of Provisional Trustee, provided he lodges the same, during the Prosecution of the Bankruptcy, in the Bank of England, to the Credit of the Accountant for the particular Estate for which he has received the same, and gives Notice of such Lodgment to any Person claiming the same; and provided he has not, after such Lodgment, dealt with the same otherwise than in the Execution of his Duty as Provisional Trustee, and under Order of the Court; and if any Action is brought against him (solely or otherwise) in respect thereof, the Court in which the Action is brought, or if the Court is One of the Superior Courts of Law, then a Judge of any One of those Courts, on his Application, and on Evidence of the Facts, may set aside the Proceedings in the Action as far as he is concerned, with or without Costs as the Court or Judge thinks fit.

Part XVI.—Transfer out of Bankruptcy.

1861, s. 110.

Resolution for taking Estate out of Bankruptcy.

291. At the First Meeting or a Special Meeting of Creditors it may be resolved by the Votes of a Majority in Number representing Three Fourths in Value of the Creditors present or represented thereat that any Proposal made by or on behalf of the Bankrupt for taking his Estate out of Bankruptcy, or any Modification thereof, be accepted; or in the Absence of any such Proposal, or in case of any such Proposal being made and rejected, it may be resolved by the Votes of that Majority that the Estate of the Bankrupt be taken out of Bankruptcy; and on any such Resolution being passed the Meeting shall be adjourned for not less than Fourteen Days, and no Proceedings in Bankruptcy shall be taken in the meantime.

Notice of Resolution.

292. Notice of the passing of the Resolution and of the Adjournment shall be gazetted.

Proceedings at adjourned Meeting.

293. At the adjourned Meeting it may be resolved by the Votes of a Majority in Number representing Three Fourths in Value of the Creditors present or represented thereat that the Estate of the Bankrupt shall be wound up out of Bankruptcy, or that any other Arrangement for the Payment of his Debts, or of a Composition thereon, be adopted (with or without a Deed), and the Court shall have

have Jurisdiction for the Purpose of carrying the Resolution into effect.

Effect of Resolution.

294. A Copy of the Resolution passed at the adjourned Meeting shall be filed in the Court, and thereupon the Arrangement mentioned in the Resolution shall be carried into effect, but the Bankrupt personally shall remain subject to the Provisions of this Act in relation to Examination, Discharge, Misdemeanour, and otherwise, as if the Resolution had not been passed.

Arrangement in Cases of Partnership.

295. Where the Adjudication is against Members of a Partnership the joint Creditors and each Class of separate Creditors may pass distinct Resolutions applicable to Arrangements for the Payment of the Debts of such respective Classes of Creditors, or of a Composition thereon, under this Part of this Act; and if distinct Resolutions are so passed, the Majorities of Creditors required under this Part of this Act shall be distinct Majorities of each such Class, but otherwise the joint and separate Creditors shall have Votes as One Body: Provided always as follows:

1. The Delay of any One of such Classes in passing, or their Failure to pass, a Resolution under this Part of this Act shall not prevent any other of such Classes from passing such a Resolution.
2. In an Arrangement for Payment of the Debts of any particular Class of Creditors, or of a Composition thereon, the Rule in Bankruptcy respecting the Application of joint and separate Estate to the Payment of Creditors shall not be contravened.

1861, ss. 185–191. 1866, §§ 291–296.

Part XVII.—Change from Bankruptcy to Arrangement.

Resolution for Arrangement.

296. At the First Meeting or a Special Meeting of Creditors, the Bankrupt, or any Person on his Behalf, may make a Proposal for the Payment of his Debts, or of a Composition thereon; and at such Meeting it may be resolved by the Votes of a Majority in Number representing Three Fourths in Value of the Creditors present or represented thereat that such Proposal or any Modification thereof be accepted.

Confirmation of Resolution by Court.

297. The Trustee shall report such Resolution to the Court within Four Days from the Date of its passing; and the Court, on the Application of the Bankrupt or the Trustee, or of any Creditor who has concurred in the Resolution, shall, if satisfied that the Resolution was duly passed, and that its Terms are reasonable,

by Order confirm the Resolution and from Time to Time suspend the Proceedings in Bankruptcy for such Period as the Court thinks fit, and may, by the same or any subsequent Order, give such Directions as it thinks fit for the Protection and Management of the Bankrupt's Estate during the Period of Suspension.

Production of Deed to Court and Declaration of complete Execution.

298. At any Time before the Termination of the Period of Suspension the Bankrupt or the Trustee or any Creditor may produce to the Court a Deed of Arrangement for carrying into effect the Proposal, and the Court, if satisfied that the Deed has been executed or in Writing assented to by a Majority in Number representing Three Fourths in Value of the Creditors, and if satisfied (after hearing the Bankrupt, and any Creditor desiring to be heard in support of or in opposition to the Deed) that the Deed is not inconsistent with the Resolution, shall make a Declaration of the complete Execution of the Deed, and shall direct the Deed to be filed in the Court, and shall annul the Bankruptcy; and the Deed shall thereupon be as binding in all respects on any Creditor who has not executed or assented to it as if he had executed or assented to it.

Computation of requisite Value.

299. For the Purposes of the Computation of the requisite Value, a Person shall be deemed a Creditor for the Amount of his Debt proveable in Bankruptcy after Deduction of the Value of all Securities for the same held by him on the Debtor's Property, estimated as the Court directs or approves; but if the Deed provides for the Payment in full of all Creditors whose Debts do not exceed Ten Pounds each, that Class of Creditors shall be excluded in the Computation of the requisite Number and Value.

Jurisdiction of Court to entertain Applications under Deed.

300. After the filing of the Deed the Court exclusively shall have Jurisdiction to enforce in any respect the Execution of the Trusts of the Deed, and shall have Jurisdiction to entertain any Application of the arranging Debtor, or of any Trustee or Inspector acting under the Deed, or of any Creditor or Person claiming to be a Creditor of the arranging Debtor, respecting the Custody, Distribution, Inspection, Management, or Winding-up of the arranging Debtor's Property or Affairs,—or respecting any Act or Thing relating thereto, done or happening after the Execution of the Deed by the arranging Debtor,—or respecting the Claim of any Person to be a Creditor,—or respecting the Execution or Performance of any of the Trusts, Powers, Covenants, or Provisions of the Deed,—or respecting the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of an Attorney,

Attorney, Solicitor, Accountant, Auctioneer, Broker, or other Person acting or employed under the Deed,—or respecting any Matter for the Submission whereof to the Court Provision is made by the Deed.

On any such Application the Court may proceed and direct and authorize Proceedings with respect to the summoning and Examination of the arranging Debtor and Witnesses and otherwise, as in Bankruptcy, and may make such Order concerning the Subject of the Application and the Costs of it as seems just, which Order shall be enforceable as an Order in Bankruptcy.

Decision of Questions as in Bankruptcy.

301. Except where the Deed expressly provides otherwise, the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, as far as the same are applicable.

Failure of complete Execution.

302. If a Declaration of complete Execution is not made within the Period of Suspension the Proceedings in Bankruptcy shall, immediately on the Expiration of that Period, go on as if there had been no Suspension; and that Period shall not be reckoned in the Calculation of Time for any Purpose under this Act.

Notice of annulling.

303. If the Bankruptcy is annulled as in this Part of this Act provided, Notice of the Order annulling it shall be gazetted, and the Trustee chosen by the Creditors shall be entitled to his Release as if the Bankruptcy had not been annulled.

Arrangement in Cases of Partnership.

304. Where the Adjudication is against Members of a Partnership the joint Creditors and each Class of separate Creditors may pass distinct Resolutions applicable to Arrangements for the Payment of the Debts of such respective Classes of Creditors, or of a Composition thereon, under this Part of this Act; and if distinct Resolutions are so passed, the Majorities of Creditors required under this Part of this Act shall be distinct Majorities of each such Class, but otherwise the joint and separate Creditors shall have Votes as One Body; Provided always as follows:

1. The Delay of any One of such Classes in passing, or their Failure to pass, a Resolution under this Part of this Act shall not prevent any other of such Classes from passing such a Resolution.
2. In an Arrangement for Payment of the Debts of any particular Class of Creditors, or of a Composition thereon, the Rule in Bankruptcy respecting the Application of joint and separate Estate to the Payment of Creditors shall not be contravened.

1849, ss. 224–229. 1859, §§ 251–278. 1861, ss. 192–200. 1866, §§ 297–305.

Part XVIII.—Arrangement by Deed.

Deed of Arrangement may be filed in Court.

305. A Debtor (not adjudged Bankrupt) who, after the Commencement of this Act, in order to an Arrangement with his Creditors, executes a Deed providing by way of Trust, Inspectorship, or otherwise, for the Distribution of all or Part of his Property among all his Creditors (with or without other Provisions having reference to the Debtor's Liabilities and his Release therefrom), or for the Payment of a Composition to all his Creditors out of his Property or otherwise, may file in Court the Deed when executed by himself.

The Deed may be filed in any Court in which the Debtor might file a Petition for Adjudication of Bankruptcy against himself, and the Court in which it is filed is in this Part of this Act referred to as the Court.

Where the Deed is filed elsewhere than in the Court of Bankruptcy in London, Information of the filing and Contents of the Deed shall be sent to that Court at such Time and in such Manner as General Orders direct.

Execution in England and Time for filing.

306. If the Deed is executed by the Debtor in England, its Execution by him shall be attested by a Solicitor, who shall state in his Attestation the Date of such Execution; and such a Deed shall not be filed after the Expiration of Seven Days from that Date.

Execution out of England and Time for filing.

307. If the Deed is executed by the Debtor in any Place out of England but within the British Dominions, it shall be executed by him before a Court or Judge, or before a Notary Public, or before a Person authorized to administer Oaths there, who shall state the Date of such Execution; and if the Deed is executed by the Debtor in any Place out of the British Dominions, it shall be executed by him before a British Minister, Consul, or Vice-Consul, or a Notary Public; and judicial and official Notice shall be taken of the Seal or Signature of any such Court, Judge, Notary Public, Person, Minister, Consul, or Vice-Consul affixed, appended, or subscribed to any Writing purporting to attest the Execution of the Deed by the Debtor or to state the Date of such Execution; and such a Deed shall not be filed after the Expiration of Two Months from the Date of its Execution by the Debtor, except with the Leave of the Court of Bankruptcy in London.

Stay of Actions,

308. After the filing of the Deed the Court may, on the Application of the Debtor, or of any Creditor who has executed or assented in Writing to the Deed, or of any Trustee or Inspector acting

acting under the Deed, restrain any Action, Suit, or Proceeding against the Debtor on such Terms as the Court thinks fit.

Notice in Gazette.

309. Notice of the filing of the Deed shall be gazetted.

Executions, &c. stayed.

310. After Notice of the filing of the Deed has been gazetted no Execution, Attachment, or other Process against the arranging Debtor's Property in respect of any Debt or Demand, and no Process against his Person in respect of any Debt or Demand other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of England, shall be available without Leave of the Court.

List of Creditors and Property.

311. Within Four Days after the filing of the Deed, the arranging Debtor shall file in the Court a List signed by him, showing his Debts and Liabilities of every Kind and the Times when the same were contracted and incurred, and the Considerations for the same, and the Names, Residences, and Occupations of his Creditors, and the respective Amounts due to them, and all Securities held by them, and a Statement showing his Property and Credits, and the estimated Value thereof; and he may from Time to Time add to or amend such List or Statement; and every such List, Statement, Addition, and Amendment shall be verified by Affidavit of the Debtor.

Inspection of Deed and List.

312. Any Person stating himself to be a Creditor of the arranging Debtor may inspect the Deed and List of Creditors and Statement of Property filed, and have a Copy thereof or Extracts therefrom.

Deed to be executed by Proportion of Creditors.

313. The Deed shall be deemed completely executed when it is executed or assented to in Writing (before or after the Execution of the Deed by the Debtor) by a Majority in Number representing Three Fourths in Value of the Creditors of the arranging Debtor.

Provision for Debtor not obtaining Assent of Three Fourths.

314. Provided, that where a Debtor executes a Deed for the Purpose of such an Arrangement as is by this Part of this Act provided for but by reason of his being unable to ascertain the Holders of Bills of Exchange or other negotiable Instruments drawn, accepted, made, or indorsed by him, or by reason of the Absence of any of his Creditors in a foreign Country, or by reason of any of his Creditors being from any other Cause unknown to him, the Deed is not executed or assented to in Writing by a Majority in Number representing Three Fourths in Value of his Creditors, the Deed shall be deemed completely executed when it is executed or assented to in Writing (before or after the Execution

of the Deed by the Debtor) by a Majority in Number representing Three Fourths in Value of his Creditors other than such Holders or absent or unknown Creditors, if the following Conditions are compiled with:

(1.) If the Deed conveys and assigns all the Debtor's Property to Trustees of the Deed, their Heirs, Executors, or Administrators, absolutely, or provides for the Distribution of all the Debtor's Property among all his Creditors:

(2.) If after the Execution and before the filing of the Deed, or within Seven Days after the filing thereof, there has been inserted by or on behalf of the Debtor, in a Newspaper or Newspapers published or circulating at the Place where the Debtor last carried on Business or resided for the longest Time within the Six Months next before the Execution by him of the Deed, an Advertisement stating the Execution and describing the Contents of the Deed, and requiring his Creditors to signify their Assent to or Dissent from the Deed, by Notice in Writing addressed to the Trustees or Inspectors acting thereunder, within Fourteen Days from the Date of the Insertion of such Advertisement.

Certificate of complete Execution by Trustee, &c.

315. A Certificate of the complete Execution of a Deed signed by the Trustee or Inspector acting under the Deed, or if there is none by any Two of the Creditors who have executed or assented in Writing to the Deed, shall be primâ facie Evidence of its complete Execution.

Creditors to be determined as in Bankruptcy except as to 10*l.* Debts paid in full.

316. Every Person who would be entitled to prove or claim in Bankruptcy shall, for the Purposes of the Deed and of this Part of this Act, be deemed a Creditor for the Amount, for which his Proof or Claim would be admitted in Bankruptcy, (and for that Purpose the Date of the Execution of the Deed by the arranging Debtor shall be taken as corresponding with the Date of an Adjudication of Bankruptcy,) and accordingly the Value of all Securities for his Debt held by any Creditor on the Debtor's Property shall be deducted from the Amount of his Debt; but if the Deed provides for the Payment in full of all Creditors whose Debts do not exceed Ten Pounds each, that Class of Creditors shall be excluded in the Computation of the requisite Number and Value.

Application for Declaration of complete Execution.

317. If at any Time within Three Months after the filing of the Deed the arranging Debtor or any Trustee or Inspector acting under the Deed, or any Creditor who has executed or assented in Writing to

to the Deed, considers the Deed to be completely executed, he may apply to the Court for a Declaration of its complete Execution.

Notice of any such Application when intended shall be gazetted.

Declaration of complete Execution.

318. After hearing the Applicant and the arranging Debtor and any Trustee or Inspector acting under the Deed and any Creditor desiring to be heard in support of or in opposition to such Application, the Court, if satisfied that the Deed is in conformity with this Part of this Act, and that it has been completely executed within Three Months after the filing of it, shall make by Order a Declaration of the complete Execution of the Deed.

Effect of Declaration of complete Execution.

319. Subject to Appeal under this Act, the Declaration of complete Execution shall be in all Courts and to all Intents absolutely final and conclusive with respect to the complete Execution and to the Validity of the Deed; and from and after such Declaration the Deed shall be as binding in all respects on any Creditor who has not executed or assented to it as if he had executed or assented to it, and shall not be liable to be disturbed or impeached at Law or in Equity on account of anything being contained in or omitted from the Deed, or by reason of any prior or subsequent Act of Bankruptcy, or on any other Account whatever.

Jurisdiction of Court to enforce Trusts and entertain Applications.

320. After the filing of the Deed the Court exclusively shall have Jurisdiction to enforce in any respect the Execution of the Trusts of the Deed, and shall have Jurisdiction to entertain any Application of the arranging Debtor, or of any Trustee or Inspector acting under the Deed, or of any Creditor or Person claiming to be a Creditor of the arranging Debtor, respecting the Custody or Management (whether interim or final), Distribution, Inspection, or Winding-up of the arranging Debtor's Property or Affairs,—or respecting any Act or Thing relating thereto, done or happening after the Execution of the Deed by the arranging Debtor,—or respecting the Claim of any Person to be a Creditor,—or respecting the Execution or Performance of any of the Trusts, Powers, Covenants, or Provisions of the Deed,—or respecting the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of an Attorney, Solicitor, Accountant, Auctioneer, Broker, or other Person acting or employed under the Deed,—or respecting any Matter for the Submissioh whereof to the Court Provision is made by the Deed.

Proceedings as in Bankruptcy.

321. On any such Application the Court may proceed and direct and authorize Proceedings with respect to the summoning and Examination of the arranging Debtor and Witnesses, and the Production

of Books, Documents, and Securities, and otherwise, as in Bankruptcy, and may make such Order concerning the Subject of the Application and the Costs of it as seems just, which Order shall be enforceable as an Order in Bankruptcy.

Decision of Questions as in Bankruptcy.

322. Except where the Deed expressly provides otherwise, the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, as far as the same are applicable.

On Failure of complete Execution Deed to be Act of Bankruptcy.

323. If Application for a Declaration of complete Execution is not made within Three Months after the filing of the Deed, and if a Declaration of complete Execution is not made within Four Months after the filing of the Deed, the Execution of the Deed by the Debtor shall be deemed an Act of Bankruptcy, in case a Petition for Adjudication of Bankruptcy against him is presented within Two Months after the Expiration of that Period of Four Months, and in all other respects the Deed, as among the Parties thereto and otherwise, shall have such Effect only as it would have had if this Part of this Act had not been passed; but in any Case the Court may, if it thinks fit, on good Cause shown, extend from Time to Time that Period of Four Months, and in that Case the Period of Two Months shall be reckoned from the Expiration of such extended Time.

Proceedings in Bankruptcy before complete Execution.

324. If at any Time before a Declaration of complete Execution a Petition for Adjudication, Trader-Debtor Summons, or other Proceeding having for its Object an Adjudication of Bankruptcy against the arranging Debtor, is pending, the Court shall deal with the Petition, Summons, or other Proceeding as the Court thinks just, and after a Declaration of complete Execution the Court shall, on Application, dismiss or absolutely stay such Petition, Summons, or other Proceeding.

In case of Fraud, &c. Power for Court to adjudge Debtor Bankrupt.

325. If at any Time before a Declaration of complete Execution it is shown to the Satisfaction of the Court that the Deed has been filed by the Debtor vexatiously or frivolously or for the Purpose of Delay, and not bonâ fide with a view to an Arrangement beneficial to his Creditors,—or that the Debtor has been guilty of Fraud or culpable Negligence in relation to the List of Creditors or Statement of Property filed by him, or otherwise in relation to the proposed Arrangement,—or that he has done any Act for which if he were adjudged Bankrupt his Order of Discharge might be suspended for Three Years,—or that he has done

done any Act by this Act made a Misdemeanour in case of Arrangement,—or that he has wilfully refused Obedience to any Summons or Order of the Court under this Part of this Act,—the Court may, if it thinks fit, either on or without any Application, but after hearing the Debtor if appearing, or in his Absence if not appearing after Notice, by Order declare the Execution of the Deed by the Debtor to be an Act of Bankruptcy.

In case of Fraud, &c. after complete Execution Power for Court to declare Release void.

326. If at any Time within Twelve Months after a Declaration of complete Execution it is shown to the Satisfaction of the Court that the Debtor has been guilty of Fraud or culpable Negligence in relation to the List of Creditors or Statement of Property filed by him, or otherwise in relation to the Arrangement,—or that he has wilfully refused Obedience to any Summons or Order of the Court under this Part of this Act,—the Court may, if it thinks fit, either on or without any Application, but after hearing the Debtor if appearing, or in his Absence if not appearing after Notice, by Order declare that the Deed, as far as regards any Release to the Debtor therein contained or provided for, shall be void, and the same shall be void to that Extent accordingly.

Stay of Proceedings at Law.

327. If at the Time when an Application is made for an Order declaring any Release to be void, an Action at Law is pending in which the Debtor has pleaded the Release as a Defence to the Action, the Court in which the Action is brought, or if it is One of the Superior Courts of Law, then a Judge of any of those Courts, may on the Application of the Plaintiff stay the Proceedings in the Action until the first-mentioned Application is disposed of; and if on such Application the Release is declared void, that Court or Judge may, on the Application of the Plaintiff, make such Order for striking out the Plea or otherwise as the Court or Judge thinks fit.

Order and Disposition, and Conveyance, &c. made by Debtor while embarrassed.

328. In either of the following Cases—

1. If the Deed is a Deed of Arrangement by way of Trust comprising all the Debtor's Property, and the Debtor at the Time of his Execution of the Deed has in his Possession, Order, or Disposition, by Consent and Permission of the true Owner thereof, any Goods or Chattels whereof he was reputed Owner, or whereof he had taken upon himself the Sale, Alteration, or Disposition as Owner :
2. If any Person being Insolvent conveys, assigns, transfers, or pays to any of his Children or to any other Person (except on the Marriage of any of his Children or for some valuable Consideration) any Real or Personal Property, Bond,

negotiable Instrument, Chose in Action, or Money, and afterwards executes a Deed of Arrangement by way of Trust, comprising all his Property, which is filed under this Part of this Act;

then and in either of those Cases after a Declaration of complete Execution the Court may order such Goods or Chattels, Property, Bond, Instrument, Chose in Action, or Money as aforesaid to be sold, disposed of, or applied for the Benefit of the Creditors under the Deed, and (subject to Appeal under this Act)the Order of the Court shall be final and conclusive on all Persons claiming any Interest in the Property or Thing to which the Order relates.

Power to recover Property, &c.

329. If the Deed is a Deed of Arrangement by way of Trust comprising all the Debtor's Property, then after a Declaration of complete Execution, all Property which would have been recoverable for the Benefit of the Creditors if the Debtor had been adjudged Bankrupt, shall be recoverable for the Benefit of the Creditors under the Arrangement; and for that Purpose the Trustees for the Time being acting under the Deed shall have in relation to all such Property all the like Powers, Rights, and Remedies as they would have had in relation to the same Property if they had been Trustees under an Adjudication of Bankruptcy against the arranging Debtor.

Powers of Trustees as Assignees in Bankruptcy.

330. If the Deed is a Deed of Arrangement by way of Trust, then after a Declaration of complete Execution, the Trustees for the Time being acting under the Deed shall, with respect to the Property and Credits comprised therein or expressed to be assigned thereby, have all the like Powers, Rights, and Remedies as they would have had in relation to the same Property and Credits if they had been Trustees under an Adjudication of Bankruptcy against the arranging Debtor.

Transfer by Creditors.

331. At any Time before or after a Declaration of complete Execution, the Creditors of the arranging Debtor may, by the Votes of a Majority in Value of the Creditors who have executed or assented in Writing to the Deed, resolve that the Deed shall be transferred from the Court in which it is filed to such other Court as they think fit, and the Court in which the Deed is filed shall, unless there appears good Reason to the contrary, make Order accordingly.

Transfer by Court.

332. At any Time before or after a Declaration of complete Execution the Court in which the Deed is filed may, on the Application of a Creditor who has executed or assented in Writing to the Deed, or of the arranging Debtor, or of any Trustee or Inspector acting

acting under the Deed, and on being satisfied, regard being had to the Nature of the Debtor's Transactions, the Situation of his Property, the Residence of his principal Creditors, or other Circumstances, that the Proceedings under the Deed could be more beneficially and conveniently prosecuted in another Court, transfer the Deed to that other Court.

Jurisdiction and Procedure on Transfer.

333. On a Deed being transferred to any Court, that Court shall have Jurisdiction in relation to the Deed as if it had been originally filed therein, and shall not have Power to transfer the Deed to any other Court; and an Appeal shall not lie against an Order for Transfer of a Deed; and all Orders, Affidavits, and Proceedings made, used, or taken in relation to the Deed before the Transfer thereof shall have the same Effect as if they had originally been Orders, Affidavits, and Proceedings of and in the Court to which the Transfer is made.

Arrangements by Partners with joint or with separate Creditors.

334. This Part of this Act shall apply to any Case in which, after the Commencement of this Act, Members of a Partnership make an Arrangement with their Creditors; and any such Arrangement may be made with the joint Creditors without any of the separate Creditors being Parties to or included in the Arrangement, or with separate Creditors only, without any of the joint Creditors being Parties to or included in the Arrangement; provided that in a distinct Arrangement with any particular Class of Creditors the Rule in Bankruptcy respecting the Application of joint and separate Estate to the Payment of Creditors shall not be contravened.

Arrangements by Partners with Creditors generally.

335. Where an Arrangement is made by Members of a Partnership with their Creditors generally, both joint and separate Creditors shall be deemed to be included in the Arrangement, and the Deed shall be deemed completely executed when it is executed or assented to in Writing by a Majority in Number representing Three Fourths in Value of the joint and separate Creditors, as One Body.

Exception of Wearing Apparel, &c.

336. The Exception in any Deed of the Wearing Apparel of the Debtor and of his Wife and of his Children, and of Household Furniture and other Personal Property, not exceeding in Value in the whole (inclusive of such Wearing Apparel) Twenty Pounds, shall not prevent the Deed from being deemed to comprise all the Debtor's Property.

Appointment of new Trustees, and

337. A Deed of Arrangement by way of Trust, filed in Court under this Part of this Act, shall (as well before as after a Declara-

Trustees Receipts. 23 & 24 Vict. c. 145. ss. 27, 29.

tion of complete Execution) be deemed to be a Deed within Section Twenty-seven of the Act of the Session of the Twenty-third and Twenty-fourth Years of Her Majesty's Reign (Chapter One hundred and forty-five) "to give to Trustees, Mortgagees, and others, certain "Powers now commonly inserted in Settlements, Mortgages, and "Wills," and the Trustees for the Time being acting under any such Deed shall be deemed Trustees within Section Twenty-nine of the same Act.

Appeal.

338. Orders and Decisions of the Court under this Part of this Act shall be subject to Appeal as in Bankruptcy.

Saving of Rights against Third Persons.

339. A Creditor of the arranging Debtor executing or assenting to the Deed shall not be prejudicially affected by this Part of this Act with respect to any Right or Remedy against any Person other than the arranging Debtor.

A Creditor of the arranging Debtor not executing or assenting to the Deed shall not be prejudicially affected by the Deed or by this Part of this Act with respect to any Right or Remedy against any Person other than the arranging Debtor.

Part XIX.—After-acquired Property in Bankruptcy and Arrangement.

Power to give Directions respecting Salary, &c.

340. Notwithstanding anything in this Act, the Court may, if it thinks fit, in and by the Order of Discharge, give such Directions touching any Salary, Pay, Emoluments, Profits, Wages, Earnings, or Income to become due or to accrue to the Bankrupt after the Order of Discharge takes effect, and touching any after-acquired Property of the Bankrupt, as to the Court seems just and reasonable.

Liability of after-acquired Property.

341. Notwithstanding in Case of Bankruptcy the Order of Discharge, and in case of Arrangement under Part XVI. the filing of the Resolution, and in case of Arrangement under Part XVII. or under Part XVIII. the Declaration of complete Execution of the Deed, after-acquired Property of the Bankrupt or arranging Debtor shall remain liable in respect of Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement to the Extent and in the Manner provided in this Part of this Act.

Summons to Bankrupt.

342. In case of Bankruptcy if at any Time or from Time to Time after the Order of Discharge takes effect, it appears to the Satisfaction

Satisfaction of the Court of Bankruptcy in London that there is good Cause to believe that, after a reasonable Allowance for the Maintenance of the Debtor and his Family, and the Payment of Debts, Claims, and Demands not proveable under the Bankruptcy, the Debtor is able to pay any Sum towards the Discharge of Debts, Claims, or Demands proveable under the Bankruptcy and not fully paid thereunder, the Court may, if it thinks fit, issue a Summons requiring him to appear and be examined respecting his Ability to make such Payment.

Summons to arranging Debtor.

343. In case of Arrangement if at any Time or from Time to Time after the filing of the Resolution or the Declaration of complete Execution, it appears to the Satisfaction of the Court of Bankruptcy in London that there is good Cause to believe that after a reasonable Allowance for the Maintenance of the arranging Debtor and his Family, and the Payment of Debts, Claims, and Demands not payable under the Arrangement, the Debtor is able to pay any Sum towards the Discharge of Debts, Claims, or Demands payable under the Arrangement, and not fully paid thereunder, the Court may, if it thinks fit, issue a Summons requiring him to appear and be examined respecting his Ability to make such Payment.

Service of Summons in England.

344. Where the Debtor is in England the Summons shall be served personally, unless in any Case the Court thinks fit to direct that Service in some other Manner shall be good Service.

Service of Summons out of England.

345. Where the Debtor is not in England, the Court, on Evidence satisfying it what Service will be effectual to give the Debtor Knowledge of the Summons, may order Service to be made by such Means and in such Manner as it thinks fit.

If no Service, Notice in Gazette and Newspaper.

346. If Service of the Summons is not effected, and the Court is satisfied that the Debtor is keeping out of the Way to avoid Service thereof or of other Process, it may order that a Notice or Notices be inserted in the Gazette, and in a Newspaper or Newspapers published or circulating at the Place where is the Debtor's usual or last known Place of Abode or Business in England, requiring him to appear on a Day thereby appointed being not less than Fourteen Days after Publication of the First of such Gazette Notices.

Procedure on Appearance of Debtor.

347. On the Appearance of the Debtor he may be examined on Oath or otherwise by the Court respecting his Ability to make such Payment and for the Discovery of Property applicable in that Behalf,

Behalf, and shall produce on Oath or otherwise such Books and Documents in his Possession or Power relating to Property so applicable or alleged to be so applicable as the Court directs, and shall sign his Examination.

Adjournment and Security.

348. The Court may, if it thinks fit, adjourn the Hearing of the Summons from Time to Time and require from the Debtor such Security for his Appearance at the adjourned Hearing as the Court thinks fit.

Concealment on Examination Misdemeanour.

349. If the Debtor does not on his Examination make a full and true Discovery of Property applicable to such Payment, or does not produce all Books and Documents which he is required by the Court to produce, he shall be deemed guilty of a Misdemeanour, and shall be liable, at the Discretion of the Court before which he is convicted on Indictment, to be punished by a Fine not exceeding Fifty Pounds, or by Imprisonment for any Term not exceeding One Year, with or without Hard Labour, and shall be liable on Summary Conviction to a Penalty not exceeding Twenty Pounds, or to Imprisonment for any Term not exceeding Six Months, with or without Hard Labour.

On every Prosecution for such a Misdemeanour a Certificate of the Court before which the Debtor was examined, certifying the Proceedings and to the effect that the Debtor has not made such Discovery or Production as aforesaid, shall be Evidence of everything therein stated, and Proof of the contrary shall lie on the Accused.

Power to order Payment of Money into Court.

350. If on the Hearing of the Summons the Court is satisfied that the Debtor is able to make such Payment, the Court may make an Order to the Effect that within a Time or at the Times therein specified the Debtor do pay into Court such a Sum, in One Payment or by Instalments, as will produce for the Benefit of the Creditors under the Bankruptcy or Arrangement such a Dividend as the Court thinks fit, but so that any Debtor be not required under this Part of this Act to pay more than Ten Shillings in the Pound on the Amount of the Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement, inclusive of any Dividend paid thereunder, and of the Payments from Time to Time made under this Part of this Act.

Calculation of 10*s.* in Pound in case of Partnership.

351. Where Two or more Persons, being Partners, are adjudged Bankrupt, or make an Arrangement with their joint Creditors, or with their joint and their separate Creditors, the Debts, Claims, and Demands on the Amount whereof each Partner shall be liable to be required

required under this Part of this Act to pay a Sum not exceeding Ten Shillings in the Pound shall be the following:

1. The whole of the Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement against or out of his separate Estate; and
2. Such Proportion of the Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement against or out of the joint Estate as equals that Proportion of the Losses of the Partnership which he is liable as between himself and his Partners to bear.

Power to appoint Receiver, &c.

352. On or after the making of any such Order the Court may, if it thinks fit, appoint the Provisional Trustee to be the Receiver of the Debtor's Property, who shall act and account as such subject and according to General Orders, and may, if it thinks fit, order that no Execution, Attachment, or other Process against the Debtor's Property in respect of any Debt or Demand, and no Process against his Person in respect of any Debt or Demand other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of England, shall be available without Leave of the Court, and may, if it thinks fit, restrain any Action, Suit, or Proceeding against the Debtor on such Terms as the Court thinks fit.

On Payment Discharge of Orders.

353. If on or before the Day specified in the Order for Payment the Debtor pays into Court the Sum therein specified, the Court shall discharge the former Orders as far as the Circumstances require.

Vesting of Estate on Failure of Payment.

354. If on or before the Day specified the Debtor does not pay into Court the Sum specified, then from and immediately after that Day the Debtor's Estate shall by virtue of this Act vest in the Provisional Trustee, and the Court may, if it thinks fit, order the same to be sold and disposed of for the Benefit of the Creditors.

Application of Money paid in or Proceeds of Sale.

355. All Money paid into Court by the Debtor in pursuance of any such Order, and the net Proceeds of any Sale and Disposition by Order of the Court, shall be applied under the Direction of the Court in or towards the Payment rateably of Debts, Claims, and Demands proveable under the Bankruptcy or payable under the Arrangement, and not fully paid thereunder, subject to a reasonable Allowance for the Maintenance of the Debtor and his Family, and to the Payment in full of Debts, Claims, and Demands not so proveable or payable.

Sequestration of Ecclesiastical Benefice.

356. Where the Bankrupt is a beneficed Clergyman, the Trustee may apply for a Sequestration of the Profits of the Benefice, and

1859, § 122. 1861, s. 134. 1866. § 227. the Order confirming the Choice of the Trustee shall be sufficient Authority for the granting of Sequestration without any Writ or other Proceeding, and the same shall accordingly be issued as on a Writ of Levari facias founded on a Judgment against the Bankrupt; but the Sequestrator shall allow out of the Profits of the Benefice to the Bankrupt, while he performs the Duties of the Parish or Place, such an annual Sum, payable quarterly, as the Bishop of the Diocese in which the Benefice is situate directs; and the Bishop may appoint to the Bankrupt such or the like Stipend as he might by Law have appointed to a Curate duly licensed to serve the Benefice in case the Bankrupt had been non-resident.

Pay, &c. of Officers, &c. 1859, § 123. 1861, s. 134. 1866, § 226.

357. Where the Bankrupt is or has been an Officer of the Army or Navy, or an Officer or Clerk or otherwise employed or engaged in the Service of the Crown, in the Customs or Inland Revenue, or any Civil Office or other Department, or has been in the Naval or Military Service of the East India Company, or an Officer or Clerk or otherwise employed or engaged in the Service of the Directors of that Company, or is in the Enjoyment of any Pension under any Department of Her Majesty's Government, or from the said Directors, the Trustee shall receive so much of the Bankrupt's Pay, Half Pay, Salary, Emolument, or Pension as the Court thinks just and reasonable, in such Manner and at such Times as the Court, with the Consent in Writing of the Secretary of State, Lords Commissioners of the Admiralty, Commissioners of Customs or Inland Revenue, or Chief Officer of the Department under which the Pay, Half Pay, Salary, Emolument, or Pension is enjoyed directs; but so that the Bankrupt be not thereby required to pay in the whole more than Ten Shillings in the Pound on the Amount of the Debts, Claims, and Demands proveable under the Bankruptcy.

Costs.

358. The Court may make such Order respecting the Costs, Charges, and Expenses of any Person in relation to a Summons under this Part of this Act and the Mode of recovering them as seems just.

Transfer of Proceedings under Summons.

359. If in any Case the Court of Bankruptcy in London is satisfied, regard being had to the Residence of the Debtor or his principal Creditors, or the Place where he was adjudged Bankrupt, or other Circumstances, that the Proceedings under a Summons issued by the Court under this Part of this Act would be more beneficially and conveniently prosecuted in another Court, the Court of Bankruptcy in London may by Order (stating the Grounds thereof) transfer the Proceedings to that other Court; and an Appeal

Appeal shall not lie against such Order; and the Court to which the Transfer is made shall have Jurisdiction under the Summons; and all Orders, Affidavits, and Proceedings made, used, or taken thereunder before the Transfer shall have the like Effect as if they had originally been Orders, Affidavits, and Proceedings of and in the Court to which the Transfer is made.

Saving for Liability under Insolvent Debtors Acts.

360. Where the Bankrupt has before Adjudication of Bankruptcy taken the Benefit of any Act for the Relief of Insolvent Debtors, nothing in this Part of this Act shall interfere with the Operation of the Act of which he so took the Benefit, in respect of the Liability of Property acquired after his Discharge under that Act, if and as far as any such Liability would have existed if this Act had not been passed.

1849, ss. 251–256.
1859, §§ 143–148.
1861, ss. 221–225.
1866, §§ 313–321.

Part XX.—Misdemeanours in Bankruptcy and Arrangement.

Misdemeanours in Bankruptcy.

361. Any Person adjudged Bankrupt after the Commencement of this Act shall, in each of the Cases following, be deemed guilty of a Misdemeanour, and on Conviction thereof shall be liable, at the Discretion of the Court before which he is convicted, to be imprisoned for any Time not exceeding Three Years, with or without Hard Labour; that is to say,—

1. If he does not, on the Day limited for his Surrender, and before Three of the Clock on that Day, after written Notice thereof served on him personally or left at his usual or last known Place of Abode or Business, and after the Notice by this Act directed is gazetted, surrender himself to the Court (having no lawful Impediment allowed by the Court), and sign the Surrender, and submit to be examined before the Court from Time to Time:
2. If he does not on the Day and at the Hour allowed him for finishing his Examination, after written Notice thereof served on him personally or left at his usual or last known Place of Abode or Business, and after the Notice directed by this Act is gazetted, surrender himself to the Court (having no lawful Impediment allowed by the Court) and submit to be examined before the Court:
3. If he does not on his Examination fully and truly discover to the best of his Knowledge and Belief all his Property, Real and Personal, inclusive of his Rights and Credits, and how, and to whom, and for what Consideration, and when, he disposed

posed of, assigned, or transferred any Part thereof, except such Part as has been sold and disposed in the Way of his Trade or Business (if any), or laid out in the ordinary Expense of his Family, and deliver up to the Court, or dispose of as the Court directs, all such Part thereof as is in his Possession, Custody, or Power, except the necessary Wearing Apparel of himself, his Wife and Children, and deliver up to the Court all Books and Documents in his Possession, Custody, or Power, relating to his Property or Affairs:

4. If after Adjudication, or within Four Months next before Adjudication he, with Intent to defraud, removes or conceals any Part of his Property to the Value of Ten Pounds or upwards, or conceals any Debt due to or from him:

5. If, with Intent to defraud, he omits any Property or Credit from his Statement of Affairs:

6. If, where any Person has to his (the Bankrupt's) Knowledge or Belief proved a false Debt under his Bankruptcy, he (the Bankrupt) fails to inform the Trustee thereof within One Month after coming to the Knowledge or Belief thereof:

7. If after the filing of the Petition for Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, he prevents or withholds the Production of any Book or Document relating to his Property or Affairs:

8. If after Adjudication, or within Six Months next before Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, he parts with, conceals, destroys, alters, mutilates, or falsifies, or causes to be concealed, destroyed, altered, mutilated, or falsified, any Book or Document affecting or relating to his Property or Affairs, or makes or is privy to the making of any false or fraudulent Entry or Statement in or Omission from any such Book or Document:

9. If, being a Trader, after Adjudication, or at any Meeting of his Creditors within Six Months next before Adjudication, he attempts to account for any Part of his Property by fictitious Losses or Expenses:

10. If, being a Trader, within Six Months next before Adjudication, under the false Pretence of carrying on Business and Dealing in the ordinary Course of Trade, he, with Intent to defraud, obtains any Property on Credit:

11. If, being a Trader, within Six Months next before the filing of the Petition for Adjudication, he, with Intent to defraud, pawns, pledges, or disposes of otherwise than in the ordinary Way of his Trade, any Property which he has obtained on Credit, and has not paid for.

362. Any

Misdemeanours in Arrangement by Deed.

362. Any Person who after the Commencement of this Act makes an Arrangement by Deed with his Creditors under Part XVIII. of this Act shall, in each of the Cases following, be deemed guilty of a Misdemeanour, and on Conviction thereof shall be liable, at the Discretion of the Court before which he is convicted, to be imprisoned for any Time not exceeding Three Years, with or without Hard Labour; that is to say,—

1. If after the filing of the Deed, or within Four Months next before the filing thereof, he, with Intent to defraud, removes or conceals any Part of his Property to the Value of Ten Pounds or upwards, or conceals any Debt due to or from him:
2. If, where any Person has to his (the arranging Debtor's) Knowledge or Belief executed or in Writing assented to the Deed as a Creditor in respect of a Debt wholly or partly false, he (the arranging Debtor) fails to inform the Court thereof within One Month after coming to the Knowledge or Belief thereof:
3. If, where any Person has to his (the arranging Debtor's) Knowledge or Belief procured himself to be admitted as a Creditor under the Deed in respect of a Debt wholly or partly false, he (the arranging Debtor) fails to inform the Court thereof within One Month after coming to the Knowledge or Belief thereof:
4. If, being a Trader, within Six Months next before the filing of the Deed, under the false Pretence of carrying on Business and dealing in the ordinary Course of Trade, he, with Intent to defraud, obtains any Property on Credit:
5. If, being a Trader, within Six Months next before the filing of the Deed, he, with Intent to defraud, pawns, pledges, or disposes of, otherwise than in the ordinary way of his Trade, any Property which he has obtained on Credit, and has not paid for.

Saving in respect of past Acts.

363. Provided, that nothing in this Part of this Act shall make any Person liable to Punishment in respect of an Act, Omission, or Thing done or happening before the Commencement of this Act, (although he is adjudged Bankrupt or enters into an Arrangement by Deed after the Commencement of this Act), in any Case where he would not have been liable to Punishment in respect of that Act, Omission, or Thing if this Act had not been passed.

Power to direct Prosecution.

364. The Court may direct that in case of Bankruptcy the Trustee, or an Inspector, or any Creditor of the Bankrupt, and in case of Arrangement by Deed any Trustee or Inspector acting under

the Deed, or any Creditor of the arranging Debtor, shall prosecute the Bankrupt or the Debtor for any Misdemeanour under this Part of this Act.

Certificate of Court to be Evidence on Trial in case of Bankruptcy.

365. On the Application in case of Bankruptcy of the Trustee or an Inspector, or of any Creditor who has proved, the Court may, if it thinks fit, give a Certificate (a Copy thereof under the Seal of the Court being delivered to the Bankrupt) to the Effect following:—

1. That the Bankrupt did not, on the Day limited for his Surrender (specified in the Certificate), and before Three of the Clock on that Day, after written Notice thereof served on him personally or left at his usual or last known Place of Abode or Business (specified according to the Fact), and after the Notice by this Act directed is gazetted, surrender himself to the Court (having no lawful Impediment allowed by the Court), and sign the Surrender, and submit to be examined before the Court from Time to Time: or,
2. That the Bankrupt did not on the Day and at the Hour allowed him for finishing his Examination (specified in the Certificate), after written Notice thereof served on him personally or left at his usual or last known Place of Abode or Business (specified according to the Fact) and after the Notice by this Act directed is gazetted, surrender himself to the Court (having no lawful Impediment allowed by the Court) and submit to be examined before the Court: or,
3. That the Bankrupt did not on his Examination fully and truly discover to the best of his Knowledge and Belief all his Property, Real and Personal, inclusive of his Rights and Credits, and how, and to whom, and for what Consideration, and when, he disposed of, assigned, or transferred any Part thereof, except such Part as has been sold and disposed in the Way of his Trade or Business (if any), or laid out in the ordinary Expense of his Family, and deliver up to the Court, or dispose of as the Court directs, all such Part thereof as was in his Possession, Custody, or Power, except the necessary Wearing Apparel of himself, his Wife and Children, and deliver up to the Court all Books and Documents in his Possession, Custody, or Power relating to his Property or Affairs (the Particulars of such Offence being specified in the Certificate): or,
4. That a Person (specified in the Certificate) having to the Bankrupt's Knowledge or Belief (the Facts showing such Knowledge or Belief being specified in the Certificate) proved a false Debt (specified in the Certificate) under his Bankruptcy,

ruptcy, the Bankrupt fail to inform the Trustee thereof within One Month after coming to the Knowledge or Belief thereof: or,

5. That after the filing of the Petition for Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, the Bankrupt prevented or withheld the Production of a Book or Document relating to his Property or Affairs (specified in the Certificate):

and on any Trial of the Bankrupt for any such Thing being a Misdemeanour under this Act such Certificate shall be received in Evidence against him, and shall be sufficient Evidence of the Matters therein certified until the contrary is shown.

Expenses of Prosecutions.

366. The Court may, if it thinks fit, in case of Bankruptcy, on the Application of the Trustee or an Inspector, or of any Creditor, and in case of an Arrangement by Deed on the Application of any Trustee or Inspector acting under the Deed, or of any Creditor, give a Certificate to the Effect that it approves of the Prosecution of the Bankrupt or Debtor for a Misdemeanour under this Act, the same being specified in the Certificate, and on the Production of such Certificate the Expenses of the Prosecution shall be allowed by the Court before which the Trial is had, unless that Court otherwise orders for special Reasons stated in the Order; and such Expenses shall be paid and borne as Expenses of Prosecutions for Felony are paid and borne; and where the Court gives such a Certificate, Expenses incurred on behalf of the Prosecution not paid and borne as aforesaid shall, when taxed as General Orders direct, be paid, under an Order of the Lord Chancellor, out of Money standing to the Court of Bankruptcy Fee Account.

Reference of Papers to Attorney General.

367. Where it appears to the Satisfaction of the Court that there are Grounds for the Institution of a Prosecution against a Bankrupt or arranging Debtor for a Misdemeanour under this Part of this Act, the Court may, if it thinks fit, either pending the Proceedings under the Bankruptcy or afterwards, order that the Trustee or an Inspector or any Creditor do lay the Papers before Her Majesty's Attorney General (or Her Majesty's Solicitor General during a Vacancy in the Office of Attorney General) for his Direction thereon.

Form of Indictments.

368. In any Indictment or Information for any Misdemeanour under this Act it shall be sufficient to set forth the Substance of the Offence charged, without alleging or setting forth any Debt, Act of Bankruptcy, Trading, Petition, or Adjudication, or any Summons, Warrant, Order, Rule, or Proceeding of or in any Court acting under this Act.

Repeal of Part of 5 & 6 Vict. c. 38. s. 1.

369. So much of the Act of the Session of the Fifth and Sixth Years of Her Majesty's Reign (Chapter Thirty-eight), "to define "the Jurisdiction of Justices in General and Quarter Sessions of "the Peace," as excludes from the Jurisdiction of Justices and Recorders at Sessions of the Peace or Adjournments thereof the Trial of Persons for Offences against any Provision of the Laws relating to Bankrupts is hereby repealed.

Part XXI.—Miscellaneous Provisions respecting Bankruptcy and Arrangement.

Aliens and Denizens. 1849, s 277.

370. This Act shall extend to Aliens and Denizens, both to make them subject thereto and to entitle them to all the Benefits given thereby.

Privilege of Parliament. 1849, s. 66.

371. If a Person having Privilege of Parliament commits an Act of Bankruptcy or makes an Arrangement by Deed he may be dealt with under this Act in like Manner as if he had not such Privilege, but he shall not be liable to be arrested or imprisoned during the Time of such Privilege, except in case of a Misdemeanour under this Act.

Adjudication in England where Debtor adjudged Bankrupt in India, &c. 1861, s. 218.

372. If a Person who has been adjudged or declared Bankrupt or Insolvent by any British Court out of England, and has not obtained his Discharge or Certificate, is seised of or entitled to any Real Property in England, the Assignee, Trustee, or other Representative of his Creditors may apply for, and, on Proof of such Bankruptcy or Insolvency, and of the Absence of the Discharge or Certificate, and without further Evidence, obtain, Adjudication against him in the Court of Bankruptcy in London; and such Adjudication shall have the like Effect and Consequences as if he had been originally adjudged Bankrupt by that Court.

Saving for Insolvency Act (India), 11 & 12 Vict. c. 21.

373. Nothing in this Act shall affect the Provisions of the Act of the Session of the Eleventh and Twelfth Years of Her Majesty's Reign (Chapter Twenty-one) "to consolidate and amend the Laws relating to Insolvent Debtors in India," and the same shall operate in all respects as if this Act had not been passed.

Contract with Creditor not to oppose. 1861, s. 166. 1866, § 288.

374. Any Contract, Covenant, or Security made, entered into, or given by the Bankrupt, or by any other Person, with, to, or in trust for a Creditor of the Bankrupt, for securing the Payment of any Money as a Consideration or with Intent to persuade the Creditor to forbear opposing the Bankrupt's last Examination or Discharge, or to forbear to appeal against the Discharge, or to apply for a Re-hearing

Re-hearing thereof, shall be deemed to have been given on an illegal Consideration; and the Party sued thereon may plead in general that the Cause of Action accrued pending Proceedings in Bankruptcy, and may give this Act and the special Matter in Evidence.

Forfeiture for Inducement to forbear Opposition, &c.
1849, s. 270.
1861, s. 167.
1866, § 289.

375. If a Creditor of the Bankrupt obtains any Money, Security, or Property from any Person as an Inducement for forbearing to oppose the Bankrupt's last Examination or Discharge, or to forbear to appeal against the Discharge or to apply for a Re-hearing thereof, he shall be liable to forfeit treble the Amount or Value of such Money, Security, or Property.

Transfer to other Court by Court.
1866, § 140.

376. The Court in which a Petition for Adjudication is filed may, before or after Adjudication, on the Application of a Creditor who has proved or who proves his Debt to the Satisfaction of the Court, or of the Debtor, or of the Trustee or an Inspector, or without any Application, and in any Case on such Notice to Creditors as the Court thinks fit, and on being satisfied, regard being had to the Nature of the Debtor's Transactions, the Situation of his Property, the Residence of his principal Creditors, or other Circumstances, that the Proceedings under the Petition could be more beneficially and conveniently prosecuted in another Court, by Order (stating the Grounds thereof) transfer the Petition to that other Court.

Transfer to other Court by Creditors.

377. The Creditors of a Bankrupt may resolve that the Proceedings under the Bankruptcy shall be transferred from the Court in which they are pending to such other Court as the Creditors think fit, and and the Court in which the Proceedings are pending shall, unless there appears good Reason to the contrary, make Order accordingly.

Jurisdiction and Procedure on Transfer.
1866, §§ 141, 142.

378. On Proceedings being transferred to any Court, that Court shall have Jurisdiction under the same, and shall not have Power to transfer them to any other Court; and an Appeal shall not lie against an Order for Transfer of Proceedings; and all Orders, Affidavits, and Proceedings made, used, or taken thereunder before the Transfer shall have the like Effect as if they had originally been Orders, Affidavits, and Proceedings of and in the Court to which the Transfer is made.

Taxation of Charges.
1856, s. 125.
1866, § 207.

379. All Charges, Fees, and Disbursements of any Auctioneer, Appraiser, Broker, Valuer, Clerk, Accountant, or other Person claimed against a Bankrupt's Estate for any Services rendered under the Bankruptcy shall be taxed and settled as General Orders direct, and no more than the Amount of the Bills so settled shall be recoverable.

 380. If

Notice to Agent of Company. 1849, ss. 87, 165. 1866, §§ 156, 157.

380. If an accredited Agent of a Corporation or Company has, in the course of his Agency, Notice of an Act of Bankruptcy, the Corporation or Company shall be deemed to have thereby such Notice.

Payment of Small Dividends without Representation.

381. Where the Sum payable at any Time to a Creditor for Dividend or Composition under a Bankruptcy or Deed of Arrangement does not exceed in Amount and the Creditor dies before Payment thereof, the Court may if it thinks fit direct that the same be paid to such Person as the Court thinks entitled to receive the same, without Representation to the Creditor being taken out by Probate, Administration, or otherwise.

Validity of Acts before annulling.

382. If the Adjudication is annulled, all Acts and Proceedings done and taken under the Bankruptcy before the Adjudication is annulled shall remain as valid and binding for and against all Persons and to all Intents as if the Adjudication had not been annulled.

Forms under General Orders.

383. Forms of Rules, Orders, Warrants, Proceedings, and Documents prescribed or allowed by General Orders under this Act shall be as valid and effectual to all Intents as if they were specially prescribed or allowed by this Act; but no Rule, Order, Warrant, Proceeding, or Document the Form whereof is so prescribed or allowed, shall be invalidated by any Informality or Omission not being in the Opinion of the Court before which the same is brought of a Nature to mislead or prejudicially affect any Party.

Orders and Notices by Post. 1861, s. 201. 1866, § 311.

384. Documents by this Act required to be served on or sent to any Person, and not by this Act directed to be served personally, may be sent by Post addressed to the last known Place of Business or Abode of such Person, subject to such Regulations respecting Registration and other Things as General Orders direct.

General Orders as to Advertisements. 1861, s. 202. 1866, § 312.

385. General Orders may prescribe the Form and Contents of Notices in the Gazette and may provide for Notices concerning more Bankruptcies, or more Deeds or other Matters, than One being comprised in One Advertisement, in a tabular Form or otherwise, and may fix the Price to be paid to the Printer of the Gazette for Advertisements, which Price he shall receive as full Payment.

Inserting Advertisement without Authority. 1866, § 319.

386. If any Person inserts or causes to be inserted in the Gazette or in any Newspaper any Advertisement under or purporting to be under this Act without Authority, or knowing the same to be false in any material Particular, he shall be guilty of an Offence against this

this Act, and shall for every such Offence be liable on summary Conviction to a Penalty not exceeding Twenty Pounds, or to Imprisonment for any Term not exceeding Three Months with or without Hard Labour.

General Orders respecting Notices, Statements, Lists, &c.

387. Any Provision of this Act requiring the gazetting of any Notice or prescribing the Contents of any Statement or List shall not be deemed to preclude the Requirement by General Orders of any additional or substituted Mode of Notice by Advertisement in a local Newspaper or by Circular or otherwise, or of any additional or substituted Particulars to be contained in any such Statement or List.

Duty of Bankrupt to attend Trustee. 1849, s. 105.

388. The Bankrupt (if not in Prison or in Custody) shall, after Surrender, attend the Trustee or Inspector on every reasonable Notice in Writing given to him or left at his usual or last known Place of Abode or Business, and shall assist the Trustee in making out the Accounts of his Estate.

Right of Bankrupt to inspect Books, &c. 1849, s. 105.

389. The Bankrupt, after Surrender, at all reasonable Times before the Expiration of the Time allowed to him to finish his Examination, may inspect his Books and Documents in the Presence of the Trustee or any Person appointed by the Trustee, and bring with him each Time any Person or Two Persons to assist him.

Duty of Bankrupt after Discharge. 1849, s. 105.

390. The Bankrupt, after his Order of Discharge takes effect, shall, on Demand in Writing given to him, or left at his usual or last known Place of Abode or Business, attend the Trustee to settle any Accounts between his Estate and any Debtor to or Creditor of the same, or attend any Court to give Evidence respecting the same, or do any Act necessary for getting in or protecting his Estate, for which Attendance he shall be entitled to be paid by the Trustee out of his Estate Five Shillings per Day, with a reasonable Sum for his Travelling Expenses.

Production of Proceedings and Copies, &c. 1849, s. 232.

391. The proper Officer of the Court and the Trustee of any Bankrupt's Estate, or any Trustee or Inspector acting under any Arrangement, on the reasonable Application of the Bankrupt or arranging Debtor, or of his Solicitor, or of any Creditor who has proved, or has executed or assented in Writing to the Deed, or of his Solicitor, shall produce and show to the Applicant all Petitions, Orders, Proceedings, Books, and Documents relating to the Bankruptcy or Arrangement, and the Applicant may have Copies or Extracts thereof or therefrom, as General Orders direct.

 392. If

Escape, &c. of Persons committed. 1849, s. 274. 1866, § 322.

392. If any Gaoler or Person to whose Custody any Bankrupt or other Person is duly committed under this Act refuses to receive him, or suffers him to escape, such Gaoler or Person shall for every such Offence be liable to forfeit a Sum not exceeding Five hundred Pounds.

Evidence.

Examination of Bankrupt. 1849, s. 117.

393. The Court may summon the Bankrupt, whether his Order of Discharge has taken effect or not, and if the Bankrupt does not come at the Time appointed by the Court (having no lawful Impediment allowed by the Court at that Time) the Court may by Warrant direct any Person whom the Court thinks fit to apprehend the Bankrupt and bring him before the Court; and on the Appearance of the Bankrupt, or if he is present at any Sitting of the Court, the Court may examine him on Oath or otherwise either orally or on written Interrogatories touching all Matters relating to his Trade (if any), and his Dealings and his Estate, or tending to disclose any secret Grant or Conveyance or any Concealment of any of his Property or Credits, and may reduce his Answers into Writing, which Examination the Bankrupt shall sign.

Examination of Bankrupt's Wife and other Persons. 1849, ss. 118. 120. 1866, § 192.

394. The Court may summon before it and examine the Bankrupt's Wife, or any Person known or suspected to have in his Possession any Part of the Bankrupt's Estate, or supposed to be indebted to the Bankrupt, or believed to be capable of giving Information concerning the Bankrupt, his Affairs, or his Estate, and may require her or him to produce any Books or Documents in her or his Possession, Custody, or Power relative thereto; and if the Person summoned does not obey the Summons, the Court may by Warrant authorize any Person to apprehend her or him, and bring her or him before the Court for Examination.

Service of Summons on Person keeping out of the way. 1849, s. 121, 1866, § 193.

395. If the Court is satisfied that any Person summoned to be examined is keeping out of the way, and cannot be personally served with the Summons, and that due Pains have been taken to effect such personal Service, the Court may order that Service to be effected in such Manner as the Court directs shall be equivalent to personal Service.

Expenses of Witnesses Attendance. 1849, s. 250. 1866, § 195.

396. Every Witness attending before the Court may have such Expenses allowed to him as the Court thinks fit; and a Person summoned to attend as a Witness before the Court shall not be liable to any Penalty or Punishment for failing to obey the Summons, unless the reasonable Expenses of his Attendance have been first paid or tendered to him.

397. If

Apprehension of Bankrupt if keeping out of the way. 1849, s. 119.

397. If the Court is satisfied that the Bankrupt is keeping out of the way, and cannot be personally served with a Summons, and that due Pains have been taken to effect such personal Service, or that there is reasonable Cause for believing that he is about to quit England, or to remove or conceal any of his Property, unless he is forthwith apprehended, the Court may by Warrant authorize any Person to apprehend him and bring him before the Court for Examination.

Commitment on Refusal to be sworn, &c. 1849, s. 260. 1866, § 196.

398. If the Bankrupt or his Wife or any other Person refuses (when required by the Court) to be sworn, or refuses to answer any Question put by the Court, or does not fully answer to the Satisfaction of the Court any such Question, or refuses to sign his or her Examination when required by the Court, or does not produce all Books and Documents which he or she is required by the Court to produce, the Court may by Warrant commit him or her to such Prison as the Court thinks fit, there to remain without Bail until he or she submits to the Court, and does the Thing which he or she has so refused or failed to do.

Contents of Warrant. 1861, s. 112. 1866, § 198.

399. Such Warrant of Commitment need not set forth or specify any Part of the Examination (if any) of the Person commited, but shall refer to the Examination (if any) as remaining on the File of Proceedings, and shall specify the Date thereof.

Question to be specified. *Ibid.*

400. Where any Person is committed for refusing to answer or not fully answering a Question on Examination, that Question shall be specified in the Examination.

Delivery of Copy of Examination.

401. A Copy of the Examination of the Person so committed shall be delivered personally to him or her within Two Days from his or her actual Lodgment in Prison, and in default thereof the Person committed shall be discharged from Custody either by the Court committing such Person, or by any Court or Judge before whom such Person is brought by Habeas corpus, with such Costs (if any) as the Court or Judge thinks fit.

Discharge on Habeas corpus. 1861, s. 113. 1866, § 199.

402. On a Writ of Habeas corpus sued out by the Person committed for Discharge on any Ground, such Person shall not be discharged by reason only of any Informality, but if the Court or Judge before whom such Person is brought, on Consideration of the whole Examination, is of opinion that the answering therein is satisfactory, the Court or Judge may order the Discharge of the Person committed.

Summoning and Examination of Witnesses.
1861, s. 50.
1866, §§ 59, 62.

403. The Court of Bankruptcy and a County Court may in any Matter within its Jurisdiction summon and examine any Person, and may take any Examination or Evidence orally (to be taken down by a Shorthand Writer or otherwise) before the Court or a Registrar, or by written Interrogatories, or on Affidavit, or by Commission abroad, as General Orders direct, and, subject thereto, as the Judge or Commissioner thinks fit.

Signature of Examination by Judge, &c.
15 & 16 Vict. c. 86. s. 32.

404. In case any Person examined refuses to sign his Examination or Deposition, the Judge, Commissioner, Registrar, or other Person presiding at the Examination may sign the same; and any Registrar or other Person presiding at an Examination may state any special Matter to the Court relative to the Examination as he thinks fit.

Witnesses out of Jurisdiction.
17 & 18 Vict. c. 34.
1861, s. 217.
1866, § 67.

405. The Act of the Session of the Seventeenth and Eighteenth Years of Her Majesty's Reign (Chapter Thirty-four), "to enable "the Courts of Law in England, Ireland, and Scotland to issue "Process to compel the Attendance of Witnesses out of their "Jurisdiction, and to give effect to the Service of such Process in "any Part of the United Kingdom," shall extend to a Summons issuing out of the Court of Bankruptcy or a County Court, and the Powers of that Act shall be exerciseable by the Court of Bankruptcy and a County Court for the Purposes of this Act.

Examination in Scotland or Ireland.
1861, ss. 216, 217.
1866, §§ 68, 69.

406. The Court of Bankruptcy or a County Court may, if it thinks fit, order that a Person named in the Order, being in Scotland or in Ireland, shall be examined there.

Taking of Affidavits.
1861, s. 207.
1866, § 63.

407. An Affidavit may be used in any Matter under this Act if sworn as follows:—

(1.) In the United Kingdom, before a Court having Jurisdiction in Bankruptcy or a Judge thereof or an Officer thereof authorized to administer Oaths in that Court, or before a Person authorized to administer Oaths in any of the Superior Courts of Law or Equity, or before a Justice of the Peace for the County or Place where it is sworn:

(2.) In any Place in the British Dominions out of the United Kingdom, before any Court, Judge, or Justice of the Peace or any Person authorized to administer Oaths there in any Court:

(3.) In any Place out of the British Dominions, before a British Minister, Consul, or Vice-Consul, or before a Judge or Magistrate, his Signature being authenticated by the Official Seal of the Court to which he is attached, or his own Official Seal, or by a Notary Public:

And judicial and official Notice shall be taken of the Seal or Signature of any such Court, Judge, Officer, Person, Justice, Minister,

Minister, Consul, Vice-Consul, or Magistrate affixed, appended, or subscribed to any Writing purporting to attest the swearing of any such Affidavit.

Perjury in Affidavits out of England.

408. If any Person wilfully and corruptly swears falsely in any Affidavit taken out of England and used in any Matter under this Act he shall be deemed guilty of Perjury in every Case where having so sworn before a competent Authority in England he would be deemed guilty of Perjury, and may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence may be laid and charged to have been committed in any County or Place in England in which he is in Custody, as if the Offence had been actually there committed.

Death of Witness.
1849, s. 242.
1866, § 75.

409. In case of the Death of a Witness whose Evidence has been received by any Court in any Proceeding under this Act, his Deposition, purporting to be sealed with the Seal of the Court, or a Copy thereof purporting to be so sealed, shall be admitted as Evidence of the Matters therein deposed to.

Advertisements when Evidence.
1849, s. 240.
1866, § 74.

410. The Gazette or a Newspaper containing an Advertisement by this Act directed or authorized to be made therein shall be admitted as Evidence of any Matter therein contained and by this Act directed or authorized to be therein advertized.

Evidence of filing of Declaration or Deed.

411. A Certificate of the filing of a Declaration of Insolvency or of the filing of a Deed of Arrangement, stating the Date of such filing, given in such Form and by such Officer as General Orders direct, shall be for all Purposes conclusive Evidence of the Fact and Date of such filing.

Records under Seal Evidence.
1849, s. 236.
1861, s. 263.
1866, § 71.

412. Any Petition, Order, Certificate, Deposition, or Proceeding under this Act purporting to be sealed with the Seal of the Court of Bankruptcy, or of any County Court, or any Writing purporting to be a Copy thereof, and to be so sealed, shall, either for any Purpose of this Act or for any other Purpose, be admitted as Evidence of the Document which it purports to be, or whereof it purports to be a Copy, and of the making of the Orders and taking of the Proceedings therein stated or referred to by the Court or Person at the Time and in the Manner therein or thereon stated or appearing, and shall be deemed to be a Record of the Court under the Seal whereof it purports to be, without further Proof.

Judicial Notice of Seal, &c.

413. Judicial and official Notice shall be taken of the Seal of the Court of Bankruptcy or of a County Court, and of the Signature of

1861, s. 204. 1866, § 72. of any Judge, Commissioner, or Registrar acting under this Act, attached or subscribed to any judicial or official Proceeding, or Document purporting to be made or signed in a Matter in Bankruptcy or other Matter under this Act.

Commitment.

Commitment of Persons disobeying Orders of Court. 1861, s. 226. 1866, § 324.

414. If any Person wilfully disobeys any Rule or Order of the Court of Bankruptcy, or of a County Court, the Court may, by Warrant, commit him to Prison, there to remain without Bail until the Court or the Court of Appeal makes Order to the contrary.

Scotland, Ireland, Colonies, &c.

Enforcement in Scotland and Ireland of Orders in England, and vice versâ. 1861, s. 219. 1866, § 55.

415. Orders of any Court in England under this Act shall be enforced in Scotland and Ireland by the Courts there having Jurisdiction in Bankruptcy or for the Relief of Insolvent Debtors.

Deliverances, Interlocutors, and Decrees of any Court in Scotland for or in the course of any Bankruptcy or Insolvency shall be enforced by any Court acting under this Act.

Orders of any Court in Ireland having Jurisdiction in Bankruptcy or for Relief of Insolvent Debtors shall be enforced by any Court acting under this Act.

In every such Case the Order, Deliverance, Interlocutor, or Decree shall be enforced in like Manner as nearly as may be as if an Order, Decision, or Decree to the like effect had been made or given by the Court required by this Section to enforce the same in a Matter within its own Jurisdiction.

Courts in England to be auxiliary to other Courts. 1861, s. 220.

416. The Court of Bankruptcy and the County Courts shall be auxiliary for all Purposes of Proof of Debt and for Examination of Persons and Witnesses on Oath or for other like Purposes to Courts having Jurisdiction in Bankruptcy in Scotland or Ireland or in any other Part of the British Dominions, and of any British Court elsewhere having Jurisdiction in Bankruptcy.

Protection of Persons in Execution of Act.

1849, s. 159. Actions against Persons executing Act not to be brought without Notice, &c.

417. No Action or Proceeding shall lie against any Person acting or intending to act under the Authority or in the Execution or in pursuance of this Act, for any alleged Irregularity or Trespass or other Act or Thing done or omitted by him under this Act, unless Notice in Writing (specifying the Cause of the Action or Proceeding, and the Name and Residence of the intending Plaintiff or Prosecutor, and of his Attorney or Agent in the Matter,) is given by the intending Plaintiff or Prosecutor to the intended Defendant,

Defendant, One Month at least before the Commencement of the Action or Proceeding, nor unless the Action or Proceeding is commenced within Four Months next after the Act or Thing complained of is done or omitted, or in case of a Continuation of Damage within Four Months next after the doing of such Damage has ceased; and any such Action shall be laid and tried in the County or Place where the Cause of Action arose, and not elsewhere.

Plea in Action.

418. In any such Action the Defendant may plead generally that the Act or Thing complained of was done or omitted by him when acting or intending to act under the Authority or in the Execution or in pursuance of this Act, and may give all special Matter in Evidence.

Evidence in Action.

419. On the Trial of any such Action the Plaintiff shall not be permitted to go into Evidence of any Cause of Action not stated in his Notice.

Tender of Amends, &c.

420. The Plaintiff in any such Action shall not succeed if Tender of sufficient Amends is made by the Defendant before the Commencement of the Action; and in case no Tender has been made the Defendant may, by Leave of the Court in which the Action is brought, at any Time pay into the Court such Sum of Money as he thinks fit, whereupon such Proceeding and Order shall be had and made in and by the Court as may be had and made on the Payment of Money into Court in an ordinary Action.

Costs of Defendant.

421. If in any such Action the Plaintiff does not succeed in obtaining Judgment the Defendant shall receive such full and reasonable Indemnity as to all Costs, Charges, and Expenses incurred in and about the Action as may be taxed and allowed by the proper Officer, subject to Review; and though a Verdict is given for the Plaintiff in the Action, he shall not have Costs against the Defendant unless the Judge before whom the Trial is had certifies his Approval of the Action and Verdict.

Protection of Messenger.

1849, ss. 107, 108.

No Action against Persons under Warrant except on Demand of Copy, &c.

422. No Action shall be brought against a Messenger or his Assistant, or other Person appointed by the Court, for anything done in obedience to a Warrant of the Court, unless a Demand for a Perusal of such Warrant, and for a Copy thereof, has been left at the usual Place of Abode of such Messenger, Assistant, or Person by the Party intending to bring such Action, or by his Attorney or Agent, in Writing signed by the Party demanding the same, nor unless Compliance with the Demand has been refused or neglected for Six Days after such Demand.

Petitioning Creditor to be made Defendant.

423. If after such Demand, and Compliance therewith, any Person brings an Action against such Messenger, Assistant, or Person, he shall make the Petitioning Creditor, if living, a Defendant, in case the Thing complained of was done before the Choice of a Trustee by the Creditors, and otherwise shall make the Trustee, if living, a Defendant, and in default of his so doing the Jury at the Trial of the Action, on Production and Proof of the Warrant, shall give their Verdict for the Defendant, notwithstanding any Defect of Jurisdiction in the Court by which the Warrant was granted.

Verdict for Messsenger.

424. If such Action is brought against the Petitioning Creditor or Trustee, and such Messenger, Assistant, or Person, the Jury shall, on Proof of the Warrant, give the Verdict for such Messenger, Assistant, or Person, notwithstanding any such Defect of Jurisdiction.

Plaintiff's Costs.

425. If the Verdict is given against the Petitioning Creditor or Trustee, the Plaintiff shall recover his Costs against him, to be taxed so as to include such Costs as the Plaintiff is liable to pay to such Messenger, Assistant, or Person.

Proof that Defendant is Petitioning Creditor sufficient.

426. In any Action brought against the Petitioning Creditor or Trustee, either alone or jointly with such Messenger, Assistant, or Person, for anything done in obedience to the Warrant, Proof by the Plaintiff that a Defendant is Petitioning Creditor or Trustee shall be sufficient for the Purpose of making him liable in the same Manner and to the same Extent as if the Act complained of in the Action had been done by him personally.

Warrants and Process.

Application of County Court Enactments as to Warrants, &c.
9 & 10 Vict. c. 95. ss. 114-117.
1861, s. 228.
1866, § 325.

427. Sections One hundred and fourteen to One hundred and seventeen (both inclusive) of the Act of the Session of the Ninth and Tenth Years of Her Majesty's Reign (Chapter Ninety-five), "for the more easy Recovery of small Debts and Demands in "England," shall extend and apply to Warrants and Process of the Court of Bankruptcy and of the County Courts acting under this Act, and to Officers of those Courts acting in execution of such Warrants and Process, as if those Sections were here re-enacted and in Terms made so applicable.

Disqualifications and Exemptions.

Sitting in Parliament, serving on Juries, &c.

428. The Judges and Commissioners, Registrars, Accountant, Taxing Master, Assistant Taxing Master, Provisional Trustees, and Messengers of the Court of Bankruptcy, and the County Court Judges, shall be incapable of being elected to or sitting in Parliament,

ment, and they and the subordinate Officers, Clerks, and Ushers of the Court of Bankruptcy shall not be liable without their Consent to serve any parochial or corporate Office, or Office in the Appointment of any Corporation, or the Office of Assessor or Collector of Taxes, and shall be exempt and disqualified from being returned and from serving on any Jury or Inquest, and shall not be inserted in any List of Men qualified or liable to serve as Jurors.

1832, s. 51. 1842, s. 62. 1849, s. 47. 1859, § 72. 1862, s. 4. 1860, § 39.

Buildings.

429. The Building in Basinghall Street in the City of London known as the Court of Bankruptcy, and the Building in Portugal Street, Lincoln's Inn Fields, formerly known as the Court for Relief of Insolvent Debtors, with the Sites thereof, are hereby declared to be vested in the Commissioners of Her Majesty's Works and Public Buildings, and shall be used as the Lord Chancellor directs.

Courts and Buildings. 1849, s. 64. 1861, s. 68. 1866, § 3.

Returns and Annual Report.

430. The Registrars and other Officers of the Courts acting in Bankruptcy shall make to the Chief Registrar, at such Times and in such Manner and Form as General Orders direct, daily or other Returns of the Business of their respective Courts and Offices, and from such Returns the Chief Registrar shall frame according to General Orders Books which shall be open for public Information and Searches, according to General Orders; and also, according to the Directions of the Lord Chancellor, a general Annual Report to the Lord Chancellor, judicial and financial, respecting all Matters within this Act, which Report shall be laid before both Houses of Parliament.

Accountant, Taxing Master, &c. to make Returns. 1861, s. 67. 1866, § 310.

Part XXII.—Funds of Court of Bankruptcy; Salaries; Annuities; Fees; Stamps.

431. All Money for the Time being in the Bank of England on account of the Estates of Bankrupts, or in Matters of Bankruptcy, shall be deemed One common and general Cash, and shall be promiscuously issued to answer the Demands thereon.

Money in Bank of England to be common and general Cash. 1835, s. 18.

432. There shall be continued at the Bank of England, in the Name of the Accountant the Three following Accounts:

Accounts at Bank of England.

The Bankruptcy Fund Account;
The Unclaimed Dividend Account;
The Chief Registrar's Account;

but the Name of the last-mentioned Account shall from and after the Commencement of this Act be The Court of Bankruptcy Fee Account.

Securities on Three Accounts to remain.

433. The Securities at the Commencement of this Act standing to the Bankruptcy Fund Account, Unclaimed Dividend Account, and Court of Bankruptcy Fee Account, shall so remain, subject to the Provisions of this Act.

Investments for Bankruptcy Fund Account. 1835, s. 1. 1849, s. 34. 1866, § 33.

434. Out of Money belonging to Estates of Bankrupts, or to Suitors in Matters of Bankruptcy, and from Time to Time remaining uninvested in the Bank of England in the Name of the Accountant, Money shall, by virtue of an Order of the Lord Chancellor, be from Time to Time invested, in the Name of the Accountant, in Government or Parliamentary Securities, which shall be carried to the Bankruptcy Fund Account.

Unclaimed Dividends, &c. to go to Unclaimed Dividend Account.

435. Dividends unclaimed, and any undivided surplus or other Money unclaimed, the Produce of any Bankrupt's Estate, shall, after the Expiration of Twelve Months from the Declaration of the Dividend, or from the Time at which the surplus or other Money became undivided or unclaimed in the Hands of the Trustee, be paid by the Trustee into the Bank of England to the Credit of the Accountant, and shall be carried to the Unclaimed Dividend Account.

Orders on Unclaimed Dividend Account for Payment of Dividends, &c.

436. Money for the Time being standing to the Credit of the Unclaimed Dividend Account shall be subject to the Order of the Court of Bankruptcy in London for the Payment thereout of any Dividend or for the Distribution of any Money in the Matter to which any Part thereof originally belonged.

Investments for Unclaimed Dividend Account.

437. Out of unemployed Money for the Time being in the Bank of England on the Unclaimed Dividend Account Money shall, by virtue of an Order of the Lord Chancellor, be from Time to Time invested, in the Name of the Accountant, in Government or Parliamentary Securities, which shall be carried to the same Account.

Sale of Securities on Bankruptcy Fund and Unclaimed Dividend Accounts. 1835, s. 16.

438. If at any Time Money invested on the Bankruptcy Fund Account or the Unclaimed Dividend Account is wanted to answer any Demand thereon in respect of Bankrupts Estates, the Lord Chancellor shall direct a sufficient Part of the Securities on which the same is invested to be sold, and the Money arising thereby shall be paid into the Bank of England, in the Name of the Accountant,

in

in such Manner as the Lord Chancellor directs, in order that the Demands in respect of Bankrupt's Estates may at all Times be fully paid out of the Common and General Cash belonging to those Estates.

Provision for Insufficiency of Securities on Two Accounts. 1835, s. 20. 1849, s. 55. 1866, § 34.

439. If at any Time the Money and Securities standing to the Bankruptcy Fund Account and the Unclaimed Dividend Account are not sufficient to answer the Demands of any Bankrupt or his Creditors, or other Persons interested therein, the Sums taken for Purposes and by virtue of this Act shall be considered a Debt due from the Public, and to such Extent as is necessary shall be made good by Parliament accordingly.

Investments for Fee Account.

440. Out of Money from Time to Time remaining uninvested in the Bank of England on the Court of Bankruptcy Fee Account Money shall, by virtue of an Order of the Lord Chancellor, be from Time to Time invested, in the Name of the Accountant, in Government or Parliamentary Securities, which shall be placed to the same Account.

Sale of Securities on Court of Bankruptcy Fee Account.

441. The Lord Chancellor may from Time to Time by Order direct any Securities standing to the Court of Bankruptcy Fee Account to be sold and the Money arising thereby shall be paid into the Bank of England to that Account.

Income of Three Accounts.

442. The Income arising from Securities for the Time being standing to the Bankruptcy Fund Account, Unclaimed Dividend Account, and Court of Bankruptcy Fee Account, shall be from Time to Time carried to the Court of Bankruptcy Fee Account.

Payment of Compensations, &c. out of Annual Votes. 1861, s. 35. 1866, § 45.

443. The Amount of the Compensations payable to the following Holders of abolished Offices,—

Patentee of Bankrupts;

Former Commissioners of Bankrupt;

Clerk of the Hanaper and other Officers of the Lord Chancellor and Court of Chancery,—

and Retiring Annuities at the Commencement of this Act payable out of Money standing to the Court of Bankruptcy Fee Account, shall be from Time to Time paid into the Bank of England to that Account, by the Commissioners of Her Majesty's Treasury, out of Money provided by Parliament.

Application of Money on Court of Bankruptcy Fee Account.

444. Money standing to the Court of Bankruptcy Fee Account shall be applicable and shall be from Time to Time applied, under Order of the Lord Chancellor made or to be made, to Payment of Salaries, Superannuation Allowances, and Retiring

1861, ss. 35, 36. 1866, §§ 35, 40, 45.

and Compensation Annuities under this Act or any former Act relating to Bankruptcy, and of Salaries of Clerks, Ushers, and others employed in the Court of Bankruptcy, and the Offices thereof, and to Payment of Expenses for Stationery, Coals, and Lights for that Court, and the Offices thereof, and of Maintenance, Insurance, Rent, and Repair of or Addition to Buildings, and other Expenses incidental to the Execution of this Act, the Account thereof being first audited and allowed by a Judge or Commissioner of the Court.

Salaries of Judges and Officers.

445. The Salaries of the Judges and Officers of the Court of Bankruptcy in London shall be as follows; namely,—

Of the Judges, Pounds a Year each;
Of the Chief Registrar, One thousand four hundred Pounds a Year;
Of the other Registrars, One thousand two hundred Pounds a Year each;
Of the Accountant, One thousand five hundred Pounds a Year;
Of the Taxing Master, One thousand four hundred Pounds a Year;
Of the Assistant Taxing Master, One thousand Pounds a Year:
Of the Registrar of Meetings Three hundred and fifty Pounds a Year (including all Allowances).

Salaries of Commissioners and of abolished Officers.

446. The Salaries of the Commissioners of the Country District Courts of Bankruptcy, and of all Officers whose Offices will be abolished under this Act, shall continue as at the Commencement of this Act as long as they remain in Office.

Salaries of Clerks, &c. 1861, Sched. A. 1866, Sched. B.

447. The subordinate Officers and Clerks in the Offices of the Accountant, Chief Registrar, and Taxing Master, and in other Offices of the Court, the Ushers of the Court of Bankruptcy, and the Clerk and Trainbearer, Ushers, and Assistant Ushers of the Lords Justices of the Court of Appeal in Bankruptcy, shall continue entitled while in their respective Offices and Employments to receive the same Salaries as at the Commencement of this Act, subject to the Directions of the Lord Chancellor.

Quarterly Payment of Salaries, &c. 1854, s. 10. 1861, ss. 29, 57.

448. Salaries, Superannuation Allowances, and Retiring and Compensation Annuities payable under this Act shall be paid in equal quarterly Payments, free from Deduction (except for Income Tax), on the Eleventh Day of January, April, July, and October, with a proportionate Part to the Person entitled to the Salary, Allowance, or Annuity, or his legal Personal Representatives (as the Case may be), for any broken Quarter, from the Day of his Appointment to the Office to which the Salary is attached or from the Day on which the Allowance or Annuity commences to the first Quarter Day, or from the last Quarter Day to the Day of the vacating

vacating of the Office by Resignation, Death, or otherwise, or of the Cesser of the Allowance or Annuity by Death or otherwise.

Retiring Annuities to Judges and Officers. 29 & 30 Vict. c. 68. 1861, s. 33.

449. The Lord Chancellor may, on the Petition of any Judge, Commissioner, or Registrar of the Court of Bankruptcy, or of the Accountant in Bankruptcy, or of the Taxing Master or Assistant Taxing Master, or of any subordinate Officer or Clerk in any Office of the Court of Bankruptcy, appointed before the passing of The Superannuation Act, 1866, order that there be paid to the Petitioner a Retiring Annuity not exceeding Two Thirds of his Salary out of the Money standing to the Court of Bankruptcy Fee Account, provided—

1. That the Petitioner has served in his Office for not less than Twenty Years, and is not less than Sixty-five Years of Age, or was appointed to his Office in or before the Year One thousand eight hundred and thirty-two, and is desirous of retiring; or
2. That the Petitioner is afflicted with a permanent Infirmity disabling him from the due Execution of his Office.

Compensation Annuities to Holders of abolished Offices. 1866, § 42.

450. The Holder of any Office abolished by or under this Act shall from and after such Abolition receive by way of Compensation an Annuity during his Life of the Amount following, that is to say,—if he has served in his Office Fifteen Years or upwards an Annuity equal to his Salary at the Time of the Abolition of his Office, and if he has not served in his Office Fifteen Years then an Annuity equal to Two Thirds of such Salary.

Compensation to Clerks. 1866, § 43.

451. The Commissioners of Her Majesty's Treasury may, on the Petition of any Clerk of an Official Assignee or of any Clerk of any other Person whose Office is abolished by this Act, inquire whether any, and, if any, what Compensation ought to be made to the Petitioner, regard being had to the Conditions on which his Appointment was made, the Nature of his Employment, and the Duration of his Service; and if they think that his Claim to Compensation is established, may award to him such Compensation, by Annuity or otherwise, as under the Circumstances of the Case they think just and reasonable.

Acceptance of public Employment by Annuitants. 1849, s. 57. 1861, s. 34. 1866, § 44.

452. If any Person to whom a Compensation Annuity is granted under this Act accepts any public Employment he shall, during the Continuance of such Employment, receive only so much (if any) of his Compensation Annuity as, with the Remuneration of that Employment, will equal such Compensation Annuity.

 453. Where

Expenses of Registrar attending Meetings, &c. 1861, s. 58. 1866, § 49.

453. Where a Registrar of the Court of Bankruptcy, by Direction of the Court, or any Person appointed by the Court for the Purpose, under the Authority of this Act, attends at any Place for the Purpose of presiding at a Meeting of Creditors, or of receiving Proofs, or of otherwise acting under this Act, his travelling and incidental Expenses incurred in so doing, and those of any Clerk or Officer attending him, shall, after being settled by the Court, be paid out of the Bankrupt's Estate, or if the same is insufficient, then out of Money standing to the Court of Bankruptcy Fee Account.

Fees.

Fees to be fixed by General Orders.

454. Such Fees shall be paid in Bankruptcy and in other Matters under this Act as General Orders direct.

Fees in City Small Debs Court. 1849, ss. 48–52. 1861, ss. 39–42. 1869, §§ 82–87.

455. Fees received under this Act in the Court held under The London (City) Small Debts Extension Act, 1852, shall be paid into and shall form Part of the General Fund thereof.

Stamps.

Fees to be collected by Stamps.

456. Fees payable under this Act in the Court of Bankruptcy shall be collected by Stamps, all or any of which shall be impressed or adhesive as General Orders direct.

Documents not properly stamped to be invalid.

457. Any Document which ought to bear a Stamp under this Act shall not be of any Validity unless and until it is properly stamped, but if any such Document is through Mistake or Inadvertence received, filed, or used without being properly stamped, the Court, in which the same is received, filed, or used may, if it thinks fit order that the same be stamped as in such Order is directed, and on it being stamped accordingly the same and every Proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Application of Money received for Stamps.

458. The Commissioners of Inland Revenue shall keep a separate Account of Money received in respect of Stamps under this Act; and, subject to Deduction of Expenses incurred by them in the Execution of this Act, the Money so received shall be carried to the Court of Bankruptcy Fee Account.

General Orders as to Stamps.

459. General Orders shall make Provision for regulating the Use of Stamps, and particularly for prescribing the Application thereof to Documents from Time to Time in use or required to be used for the Purposes of Stamps, and for insuring the Cancellation of adhesive Stamps, and for keeping Accounts of Stamps.

460. Every

460. Every Deed, Conveyance, Assignment, Surrender, Admission, or other Assurance relating solely to Freehold, Leasehold, Copyhold, or Customary Property, or to any Mortgage, Charge, or other Incumbrance on, or any Estate, Right, or Interest in any Real or Personal Property which is Part of the Estate of any Bankrupt, and which after the Execution of such Deed, Conveyance, Assignment, Surrender, Admission, or other Assurance, either at Law or in Equity, is or remains the Estate of the Bankrupt or of the Trustee under the Bankruptcy, and every Power of Attorney, Proxy Paper, Writ, Order, Certificate, Affidavit, Bond, or other Instrument or Writing relating solely to the Estate of any Bankrupt or to any Proceeding under any Bankruptcy shall be exempt from Stamp Duty (except in respect of Fees under this Act) and from every other Duty.

Exemption of Deeds, &c. from Stamp Duty.
1849, s. 138.
1866 § 88.

Part XXIII.—General Orders.

461. General Orders shall be from Time to Time made under this Act respecting Practice and Procedure, Forms, Fees, Costs, Duties of Officers, Powers, Duties, and Remuneration of Registrars and High Bailiffs of County Courts, and other Matters requiring Regulation under this Act; and any General Orders under this Act may be made at any Time after the passing of this Act.

General Orders under Act.
1861, ss. 45–7.
1866, §§ 79, 81.

462. General Orders under this Act respecting the Court of Bankruptcy shall be made by the Lord Chancellor with the Advice and Assistance of the Judges and Commissioners of the Court of Bankruptcy or any Two of them.

General Orders for Court of Bankruptcy.

463. General Orders under this Act for County Courts shall be made by the Authority for the Time being empowered to make General Orders for County Courts under the Acts relating thereto.

General Orders for County Courts.

464. General Orders under this Act respecting Appeals shall be made by the Lord Chancellor, with the Advice and Assistance of the Lords Justices of the Court of Appeal in Bankruptcy, or One of them.

General Orders respecting Appeals.

465. General Orders under this Act may vary Provisions of this Act regulating Proceedings in Bankruptcy and other Matters under this Act, in order to adapt them to the Constitution and Circumstances of County Courts, and may also alter any Provision of this Act respecting Practice or Procedure; but in any such Case

General Orders altering Practice, &c.

the Orders shall not take effect until the Expiration of One Month after they have been laid before both Houses of Parliament.

General Orders respecting Fees, &c.

466. General Orders under this Act, as far as they relate to Fees or to Stamps, or to Receipt and Expenditure of and accounting for Money, or to Remuneration of Officers, shall be made with the Concurrence of the Commissioners of Her Majesty's Treasury.

Part XXIV.—Temporary Provisions respecting Insolvent Debtors.

Jurisdiction of Insolvent Debtors Court to be in Court of Bankruptcy. 1861, s. 1.

467. The Court of Bankruptcy in London shall have all the Jurisdiction, Powers, and Authorities possessed at the Commencement of The Bankruptcy Act, 1861, by the late Insolvent Debtors Court, in relation to all Matters then pending in that Court, and not completed at the Commencement of this Act.

Jurisdiction of County Courts. 1861, s. 20.

468. All Matters at the Commencement of this Act pending in the County Courts under the Acts for the Relief of Insolvent Debtors shall be continued and completed therein as if this Act had not been passed.

Provision for Duties of Provisional Assignee. 1866, § 36.

469. The Person at the Commencement of this Act holding the Office of Provisional and Official Assignee of the Estates and Effects of Insolvent Debtors shall (subject to the Provisions of this Act) continue, on the same Terms on which he then holds that Office, to perform the Duties imposed on him by or under The Bankruptcy Act, 1861, or under any other Act. If a Vacancy occurs in that Office the Lord Chancellor may appoint a fit Person to perform the remaining Duties thereof, and the Person so appointed shall have all the Powers and Authorities of the Person who is at the Commencement of this Act the Provisional and Official Assignee; and all Estates and Effects vested in the Provisional and Official Assignee at the Time of the Vacancy shall, by virtue of such Appointment, become vested in the Person so appointed, and the like Appointment on a Vacancy shall be made and the like vesting shall have Effect from Time to Time as Occasion requires.

Clerks and Officers of Insolvent Debtors Court. 1861, s. 22.

470. The Clerks and Persons (other than the Provisional and Official Assignee) at the Commencement of this Act discharging Duties connected with the late Insolvent Debtors Court shall continue

continue to discharge the same Duties as at the Commencement of this Act; and every such Clerk and Person shall hold his Appointment during good Behaviour, but may be removed by the Lord Chancellor, by Order, for some sufficient Reason therein stated. If a Vacancy happens in the Place of any such Clerk or Person, the Lord Chancellor may, if he thinks fit, employ a fit Person to discharge the Duties of that Place; and in the event of the Duties of any such Clerk or Person ceasing, he shall, if the Lord Chancellor thinks fit, be appointed to discharge similar Duties in the Court of Bankruptcy in London in case his Services are required in that Behalf.

Salary of Provisional Assignee.

471. The Person who is at the Commencement of this Act the Provisional and Official Assignee shall as long as he remains in Office receive the same Salary, out of the same Funds, and payable in the same Manner, as at the Commencement of this Act.

Salaries of Clerks and Officers of Court. 1861, s. 30.

472. The Clerks and Persons (other than the Provisional and Official Assignee) who under this Act discharge Duties connected with the late Insolvent Debtors Court shall as long as they discharge such Duties continue to receive the same Salaries, out of the same Funds, and payable in the same Manner, as at the Commencement of this Act.

Saving for Right to Superannuation Allowance, &c. 1861, s. 22.

473. Nothing in this Act shall deprive any Person holding at the Commencement of this Act any Office or Place in the late Insolvent Debtors Court of any Benefit to which at or after the Commencement of this Act he is or may become entitled by virtue of any Act relating to Superannuation Allowances; and the Service of any such Person in the Court of Bankruptcy in London shall, in relation to Superannuation Allowance, Retiring Pension, and Compensation Annuity on Abolition of Office by or under this Act, be equivalent to Service in the late Insolvent Debtors Court.

Fees in Insolvent Cases.

474. The Provisions of this Act respecting Fees shall extend to Fees to be paid in respect of Proceedings which originated in the late Insolvent Debtors Court, and are carried on in the Court of Bankruptcy in London.

Account of Insolvent Debtors Court.

475. All Securities standing at the Commencement of this Act to the Credit of the Account at the Bank of England, intituled The Purposes of the Twenty-sixth Section of The Bankruptcy Act, 1861, Account, and the Balance of Moneys in the Bank of England at the Commencement of this Act to the Credit of the Account intituled The General Account of Bankrupts Estates, and standing in the

Books of the Accountant to the Credit of Insolvent Estates, shall on the Commencement of this Act be carried by the Governor and Company of the Bank of England, under the Direction of the Lord Chancellor, to an Account to be intituled The Account of the late Insolvent Debtors Court; and the same shall be subject to the Orders of the Court of Bankruptcy in London for the Payment thereout of any Dividend, or for the Distribution of any Money, in the Matter to which any Part thereof originally belonged; and out of the unemployed Money for the Time being in the Bank of England on the last-mentioned Account Money shall by virtue of an Order of the Lord Chancellor be from Time to Time invested in the Name of the Accountant in Government or Parliamentary Securities, which shall be carried to the same Account.

Insolvent Debtors Court Interest Account.

476. All Money standing at the Commencement of this Act to the Credit of the Account at the Bank of England, intituled The Purposes of the Twenty-sixth Section of the Bankruptcy Act, 1861, Account, shall, on the Commencement of this Act, and the Income from Time to Time arising from Securities standing to the Credit of the Account of the late Insolvent Debtors Court shall, from Time to Time, be carried by the Governor and Company of the Bank of England, under the Direction of the Lord Chancellor, to an Account to be intituled The late Insolvent Debtors Court Interest Account.

Application of Money on last-mentioned Account.

477. The Money for the Time being standing to the Credit of the last-mentioned Account shall be applicable in such Manner as the Lord Chancellor from Time to Time by Order directs, towards defraying the Remuneration to be allowed by the Lord Chancellor to the Person for the Time being appointed to perform the remaining Duties of the Office of Provisional and Official Assignee, and the Salaries of the Clerks and Persons who under this Act for the Time being discharge Duties connected with the late Insolvent Debtors Court, and for indemnifying every existing and past Provisional and Official Assignee, and every Person appointed to perform the remaining Duties of the Office of Provisional and Official Assignee, and their respective Estates, against Costs and Expenses incurred or to be incurred in any Action, Suit, or Proceeding.

Deficiency on last-mentioned Account.

478. In case at any Time the Funds standing to the Credit of the last-mentioned Account are insufficient to pay the Salaries charged thereon, the same or the Deficiency shall be paid out of the annual Sum provided by Parliament for the Use and Purposes of the late Insolvent Debtors Court and of the Officers thereof, which Sum shall be paid into the Bank of England, and shall be carried to the Credit of the Account of the late Insolvent Debtors Court.

479. All

479. All Unclaimed Dividends belonging to Estates subject to the Control of the late Insolvent Debtors Court which in pursuance of The Bankruptcy Act, 1861, have been transferred to the Unclaimed Dividend Account, shall on the Commencement of this Act, by Order of the Lord Chancellor, be transferred to the Account of the late Insolvent Debtors Court. Unclaimed Dividends in Insolvency.

Bankruptcy.

A

BILL

[AS AMENDED IN COMMITTEE]

To consolidate and amend the Acts rela
to Bankruptcy in England.

(*Prepared and brought in by*
Mr. Attorney General, Mr. Secretary Walpole,
Mr. Solicitor General.)

Ordered, by The House of Commons, *to be Prin*
3 *May* 1867.

[Bill 131.]

Under 16 *oz.*

A

BILL

TO

Repeal Enactments relating to Bankruptcy in England, and to Matters connected therewith.

WHEREAS the Enactments described in the Schedule to this Act relate to Bankruptcy in England, or to Matters connected therewith, and the same either have ceased to be in force, or on the Commencement of divers Acts of the present Session will cease to be in force, and it is therefore expedient that the same be expressly repealed: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The Enactments described in the Schedule to this Act are hereby repealed; but this Repeal shall not affect the past Operation of any such Enactment, or revive any Court, Office, Jurisdiction, or Authority abolished by any such Enactment, or affect the Force or Operation of any Order in Council made, or the Operation or Enjoyment of any Appointment, Office, Salary, Pension, Retiring or Superannuation Allowance, Compensation, or Salary for Life, made or granted, or the Validity or Invalidity of anything done or suffered, Repeal of Enactments in Schedule.

suffered, or any Right, Title, Obligation, or Liability accrued, before the Commencement of this Act, by or under any such Enactment; nor shall this Act interfere with the Prosecution or affect the Course of any Proceeding under or in relation to any Adjudication of Bankruptcy made, or Petition for Protection or Discharge from Custody presented, or Resolution passed, or Deed registered, or Order made, or Thing done under any such Enactment before the Commencement of this Act, or affect any of the Incidents or Consequences of any such Adjudication, Petition, Resolution, Deed, Order, or Thing; nor shall this Act interfere with the Institution or Prosecution of any Proceeding in respect of any Offence committed against, or any Penalty or Forfeiture incurred under, any Enactment hereby repealed.

Commencement.

2. This Act shall take effect from and immediately after the *Thirty-first* Day of *December* One thousand eight hundred and sixty-*seven*.

Short Title.

3. This Act may be cited as The Bankruptcy Acts Repeal Act, 1867.

SCHE-

SCHEDULE.

Enactments repealed.

1 & 2 Geo. 4. c. 115.	An Act to repeal so much of an Act of the Fifth Year of the Reign of His late Majesty King George the Second, relating to Bankrupts, as requires the Meetings under Commissions of Bankrupt to be holden in the Guildhall of the City of London, and for building Offices in the said City for the Meetings of the Commissioners, and for the more regular Transaction of Business in Bankruptcy.
1 & 2 Will. 4. c. 56.	An Act to establish a Court of Bankruptcy.
2 & 3 Will. 4. c. 114.	An Act to amend the Laws relating to Bankrupts.
5 & 6 Will. 4. c. 29.	An Act for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts Estates, and applying the Interest thereon in discharge of the Expenses of the Court of Bankruptcy, and for the Relief of the Suitors in the said Court, and for removing Doubts as to the Extent of the Powers of the Court of Review and of the Subdivision Courts.
6 & 7 Will. 4. c. 27.	An Act for investing in Government Securities further Portions of the Cash lying unemployed in the Bank of England belonging to Bankrupts Estates.
5 & 6 Vict. c. 122.	An Act for the Amendment of the Law of Bankruptcy.
7 & 8 Vict. c. 70.	An Act for facilitating Arrangements between Debtors and Creditors.
7 & 8 Vict. c. 96. in part.	An Act to amend the Law of Insolvency, Bankruptcy, and Execution - - - - in part: namely,— Sections One to Fifty-six, both inclusive.
10 & 11 Vict. c. 102.	An Act to abolish the Court of Review in Bankruptcy, and to make Alterations in the Juridictions of the Courts of Bankruptcy and Court for Relief of Insolvent Debtors.
12 & 13 Vict. c. 106.	The Bankrupt Law Consolidation Act, 1849.
14 & 15 Vict. c. 83. in part.	An Act to improve the Administration of Justice in the Court of Chancery, and in the Judicial Committee of the Privy Council - - - in part: namely,— Section Seven, and Section Ten as far as it relates to Matters of Bankruptcy.
15 & 16 Vict. c. 77.	An Act to abolish the Office of Lord Chancellor's Secretary of Bankrupts, and to regulate the Office of Chief Registrar of the Court of Bankruptcy.
16 & 17 Vict. c. 81.	An Act to reduce the Salary and Emoluments of the Registrar of Meetings of the Court of Bankruptcy.
17 & 18 Vict. c. 119.	The Bankruptcy Act, 1854.
18 & 19 Vict. c. 15. in part.	An Act for the better Protection of Purchasers against Judgments, Crown Debts, Cases of Lis pendens, and Life Annuities or Rentcharges - - - - - in part: namely,— Section Ten.
23 & 24 Vict. c. 147.	An Act to amend the Seventh and Eighth Victoria, Chapter Seventy.
24 & 25 Vict. c. 134.	The Bankruptcy Act, 1861.
25 & 26 Vict. c. 99.	An Act to amend the Bankruptcy Act (1861).

A

BILL

To repeal Enactments relating to Bankruptcy in England, and to Matters connected therewith.

(*Prepared and brought in by Mr. Attorney-General, Mr. Secretary Walpole, and Mr. Solicitor-General.*)

Ordered, by The House of Commons, *to be Printed*, 14 *March* 1867.

[Bill 76.]

Under 1 *oz.*

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Repeal Enactments relating to Bankruptcy in England, and to Matters connected therewith.

WHEREAS the Enactments described in the Schedule to this Act relate to Bankruptcy in England, or to Matters connected therewith, and the same either have ceased to be in force, or on the Commencement of divers Acts of the present Session will cease to be in force, and it is therefore expedient that the same be expressly repealed: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The Enactments described in the Schedule to this Act are hereby repealed; but this Repeal shall not affect the past Operation of any such Enactment, or revive any Court, Office, Jurisdiction, or Authority abolished by any such Enactment, or affect the Force or Operation of any Order in Council made, or the Operation or Enjoyment of any Appointment, Office, Salary, Pension, Retiring or Superannuation Allowance, Compensation, or Salary for Life, made or granted, or the Validity or Invalidity of anything done or suffered, Repeal of Enactments in Schedule.

suffered, or any Right, Title, Obligation, or Liability accrued, before the Commencement of this Act, by or under any such Enactment; nor shall this Act interfere with the Prosecution or affect the Course of any Proceeding under or in relation to any Adjudication of Bankruptcy made, or Petition for Protection or Discharge from Custody presented, or Resolution passed, or Deed registered, or Order made, or Thing done under any such Enactment before the Commencement of this Act, or affect any of the Incidents or Consequences of any such Adjudication, Petition, Resolution, Deed, Order, or Thing; nor shall this Act interfere with the Institution or Prosecution of any Proceeding in respect of any Offence committed against, or any Penalty or Forfeiture incurred under, any Enactment hereby repealed.

Commencement.

2. This Act shall take effect from and immediately after the Thirty-first Day of December One thousand eight hundred and sixty-seven.

3. This Act may be cited as The Bankruptcy Acts Repeal Act, 1867.

SCHE-

SCHEDULE.

Enactments repealed.

1 & 2 Geo. 4. c. 115.	An Act to repeal so much of an Act of the Fifth Year of the Reign of His late Majesty King George the Second, relating to Bankrupts, as requires the Meetings under Commissions of Bankrupt to be holden in the Guildhall of the City of London, and for building Offices in the said City for the Meetings of the Commissioners, and for the more regular Transaction of Business in Bankruptcy.
1 & 2 Will. 4. c. 56.	An Act to establish a Court of Bankruptcy.
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5 & 6 Will. 4. c. 29.	An Act for investing in Government Securities a Portion of the Cash lying unemployed in the Bank of England belonging to Bankrupts Estates, and applying the Interest thereon in discharge of the Expenses of the Court of Bankruptcy, and for the Relief of the Suitors in the said Court, and for removing Doubts as to the Extent of the Powers of the Court of Review and of the Subdivision Courts.
6 & 7 Will. 4. c. 27.	An Act for investing in Government Securities further Portions of the Cash lying unemployed in the Bank of England belonging to Bankrupts Estates.
5 & 6 Vict. c. 122.	An Act for the Amendment of the Law of Bankruptcy.
7 & 8 Vict. c. 70.	An Act for facilitating Arrangements between Debtors and Creditors.
7 & 8 Vict. c. 96. in part.	An Act to amend the Law of Insolvency, Bankruptcy, and Execution - - - - } in part: namely,— Sections One to Fifty-six, both inclusive.
10 & 11 Vict. c. 102.	An Act to abolish the Court of Review in Bankruptcy, and to make Alterations in the Jurisdictions of the Courts of Bankruptcy and Court for Relief of Insolvent Debtors.
12 & 13 Vict. c. 106.	The Bankrupt Law Consolidation Act, 1849.
14 & 15 Vict. c. 83. in part.	An Act to improve the Administration of Justice in the Court of Chancery, and in the Judicial Committee of the Privy Council - - } in part: namely,— Section Seven, and Section Ten as far as it relates to Matters of Bankruptcy.
15 & 16 Vict. c. 77.	An Act to abolish the Office of Lord Chancellor's Secretary of Bankrupts, and to regulate the Office of Chief Registrar of the Court of Bankruptcy.
16 & 17 Vict. c. 81.	An Act to reduce the Salary and Emoluments of the Registrar of Meetings of the Court of Bankruptcy.
17 & 18 Vict. c. 119.	The Bankruptcy Act, 1854.
18 & 19 Vict. c. 15. in part.	An Act for the better Protection of Purchasers against Judgments, Crown Debts, Cases of Lis pendens, and Life Annuities or Rentcharges - - - - - } in part: namely,— Section Ten.
23 & 24 Vict. c. 147.	An Act to amend the Seventh and Eighth Victoria, Chapter Seventy.
24 & 25 Vict. c. 134.	The Bankruptcy Act, 1861.
25 & 26 Vict. c. 99.	An Act to amend the Bankruptcy Act (1861).

A

BILL

[AS AMENDED IN COMMITTEE]

To repeal Enactments relating to Bankruptcy in England, and to Matters connected therewith.

(*Prepared and brought in by Mr. Attorney-General, Mr. Secretary Walpole, and Mr. Solicitor-General.*)

Ordered, by The House of Commons, *to be Printed*, 3 *May* 1867.

[Bill 133.]

Under 1 *oz.*

A

B I L L

TO

Explain and declare the Law relating to the Publication of Banns of Matrimony, and to remove Doubts as to the Validity of Marriages in certain Cases.

WHEREAS by an Act of Parliament passed the Fourth Year of the Reign of King George the Fourth, intituled "An Act for amending the Laws respecting the Solemnization of Marriages in England," it is enacted, that "all Banns of Matrimony shall be published in an audible Manner in the Parish Church, or in some Public Chapel, in which Chapel Banns of Matrimony may now or may hereafter be lawfully published, of or belonging to such Parish or Chapelry wherein the Persons to be married shall dwell, according to the Form of Words prescribed by the Rubrick prefixed to the Office of Matrimony in the Book of Common Prayer, upon Three Sundays preceding the Solemnization of Marriage, during the Time of Morning Service, or of Evening Service (if there shall be no Morning Service in such Church or Chapel upon the Sunday upon which such Banns shall be so published), immediately after the Second Lesson:" Preamble. 4 G. 4. c. 76. s. 2.

 And

And whereas Marriages have been solemnized after Publication of Banns at different Times during Morning Service:

And whereas Doubts have been entertained as to the legal Time for the Publication of Banns during the Time of Morning Service:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Interpretation of recited Act.

1. In the Interpretation of the said recited Act the Words "immediately after the Second Lesson" in the Second Section of the said Act shall apply and be taken to apply to the Time of Morning Service as well as to the Time of Evening Service.

Irregularity in Time of publishing Banns not to affect Marriages already solemnized.

2. No Marriage solemnized before *the passing of this Act* after any Publication of Banns during the Time of Morning Service shall be or be held to be invalid by reason of any Irregularity in the Time of such Publication.

Indemnity to Clergymen.

3. No Clergyman who before *the passing of this Act* shall have solemnized Matrimony after any Publication of Banns during the Time of Morning Service shall be punishable under the Twenty-first Section of the said recited Act by reason of his having solemnized the same after any such Publication as aforesaid.

A

BILL

To explain and declare the Law relating to the Publication of Banns of Matrimony, and to remove Doubts as to the Validity of Marriages in certain Cases.

(*Prepared and brought in by Mr. Monk and Sir Michael Hicks Beach.*)

Ordered, by The House of Commons, *to be Printed*, 9 *May* 1867.

[Bill 141.]

Under 1 *oz.*

LORDS AMENDMENTS

TO THE

BANNS OF MATRIMONY BILL.

Note.—*The Page and Line refer to the Bill* (216.) *as printed by the Lords.*

In the Title.

Leave out ("to explain and declare the Law relating to the "Publication of Banns of Matrimony and")

Page 2.

Leave out Clause 1.

Line 13. After ("Act") insert ("or until Parliament shall "have otherwise provided")

Line 14. Leave out ("during the Time of Morning Service") and insert ("after the Second Lesson or after the Nicene "Creed at Morning Service")

Lines 15. and 16. Leave out ("any Irregularity in the Time "of")

Line 17. Leave out from ("Clergyman") to ("shall") in Line 19.

Line 21. Leave out ("the same") and insert ("or solemnizing "any Marriage")

[Bill 317.]

BANNS OF MATRIMONY BILL.

Ordered, by The House of Commons, *to be Printed*
14 *August* 1867.

[Bill 317.]

Under 1 *oz.*

A

BILL

FOR

Extinguishing certain Rights of Way over and along Barrack Lane in the Borough of New Windsor in the County of Berks.

WHEREAS a certain Lane called Barrack Lane in the Borough of New Windsor in the County of Berks, so far as the same is affected by this Act, runs through and adjoins to Lands and Buildings which are vested in Her Majesty's Principal Secretary of State, and are held by him for Barrack Purposes:

And whereas the said Lane is subject to some Right or Rights of Way over and along the same which it is desirable should be extinguished, so as to enable the said Principal Secretary to enclose the said Lane, and to improve the Barrack Accommodation there:

And whereas there now exists by means of a public Lane or Street called Victoria Lane (which has been recently widened by the Surrender of Land immediately adjacent thereto, and heretofore vested in the said Principal Secretary, and which out of Monies voted by Parliament has been recently improved by the said Principal Secretary) a sufficiently commodious Way to and from

the Points to and from which Access is obtained by such Right of Way over Barrack Lane:

And whereas, for the Reasons aforesaid, it is expedient that the said Right or Rights of Way over such Part of Barrack Lane as aforesaid should be extinguished, and that the said Lane, so far as it runs through and adjoins the Lands or Buildings of the said Principal Secretary, should be enclosed and used for Barrack Purposes:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Rights of Way along Barrack Lane to cease.

1. That from and after the passing of this Act all Rights of Way over and along the Lane called Barrack Lane, so far as it runs through or adjoins the Lands or Buildings vested in Her Majesty's Principal Secretary of State for the War Department, shall cease, and the said Principal Secretary shall stop up the said Way, and enclose and use the Site thereof for Barrack Purposes; and thereupon public Notice shall be given of the stopping up and enclosing the same by Advertisement in the London Gazette, and in some local Newspaper published or circulated in the Counties of Berks and Bucks, and shall be affixed on the outer Door of the Town Hall or some other public Place within the said Borough.

(Rights of Way).

A

BILL

For for extinguishing certain Rights of Way over and along Barrack Lane in the Borough of New Windsor in the County of Berks.

(*Prepared and brought in by Sir William Pakington and Sir James Fergusson.*)

Ordered, by The House of Commons, *to be Printed*, 4 *July* 1867.

[Bill 229.]

Under 1 *oz.*

395

A

BILL

TO

Authorize the Commissioners of Her Majesty's Treasury to compound the Public Debt due by the Commissioners of the Bridge across the River Blackwater near the Town of Youghal in the County of Cork, and for the Transfer of the said Bridge to the Grand Juries of the Counties of Cork and Waterford; and for other Purposes relating thereto.

WHEREAS by an Act of the Ninth Year of the Reign of King George the Fourth, Chapter Fifty-three, intituled "An Act for the Erection of a Bridge across the River "Blackwater, at or near Foxhole and the Town of Youghal in the "County of Cork, to the opposite Side in the County of Waterford, "and for making the necessary Approaches thereto," it was enacted that certain Persons therein named, and their Successors to be elected in manner therein mentioned, should be, and they were thereby appointed Commissioners for the Execution of said Act for making, constructing, and maintaining a Bridge over said River, at or near the Place aforesaid, with the necessary Avenues, Approaches, and other Works Preamble.

Works thereby authorized to be executed, and were thereby authorized and empowered by themselves, their Deputies, Agents, Officers, Workmen, and Servants, to make, complete, and maintain a Bridge of Stone, Timber, Iron, or other fit Materials across the River Blackwater, at or near the Place called Foxhole in the Parish of Saint Mary's Youghal in the County of Cork, to the opposite Side in the Parish of Clashmore in the County of Waterford, with a Drawbridge for the Passage of Shipping, and also a Quay or Quays, Abutments, and Moorings for the Convenience and Accommodation of Vessels passing the said Bridge; also to make and maintain One Road of Approach from the Mail Coach Road in Muckridge Townland to the said Bridge, the Townland of Youghal, Foxhole, or Muckridge in the Parish of Saint Mary's Youghal in the County of Cork aforesaid, One Road from the said Bridge, along the Slob or Land of the River Blackwater, to the Quay called and known by the Name of Green's Quay, to Catherine Street in the Parish of Saint Mary's Youghal aforesaid, and One Road from the Eastern End of the said Bridge, to or near Pilltown in the Parish of Kinsalebeg, and to Summerhill in the Parish of Grange and County of Waterford aforesaid, to communicate with the Clashmire and the new Dungarvan Roads; and, that the Navigation of the said River Blackwater might receive no Prejudice, it was thereby further enacted, that the Bridge so to be erected or built as aforesaid should be so constructed and built as that there should be a Passage for Ships and Vessels to pass up and down the said River by or through the said Bridge, and for that Purpose there should be in the said Bridge, or adjoining thereto, One or more lifting or Portcullis Bridge or Bridges of at least Thirty Feet in the Clear in Length, so as to admit of Vessels passing up and down the said River; and it was thereby further enacted, that the Right and Property of and in the said Bridge, and of and in the Toll House, Gate, and Bars, and all Posts, Rails, and Fences to be erected, set up, and provided in, upon, or near the said Bridge, or any of them, and of the Materials for the same, should be and were thereby vested in the said Commissioners and their Successors; and it was thereby further enacted, that the said Commissioners should, as soon as conveniently might be after a Passage should be made over the said intended Bridge, cause to be erected and set up a Turnpike Gate or Gates, or Toll Gate or Gates, at or upon the said Bridge, or at or upon some or One of the said Roads or Avenues leading thereto, belonging to the said Commissioners, or any Part or Parts thereof, and from Time to Time should and might remove the same Turnpike or Toll Gate or Turnpikes or Toll Gates, and erect or set up another Turnpike or Toll Gate, or other Turnpikes or Toll Gates, in lieu thereof upon any Part of the said Bridge or Roads, and erect and maintain such Toll Houses and other Conveniences near or adjoining to the said

Turnpike

Turnpike or Toll Gate, as the said Commissioners should think proper, and that the respective Tolls therein specified shall be demanded and taken at the Turnpike or Toll Gate, Turnpikes or Toll Gates, to be erected as aforesaid, in the Name of or as a Pontage Toll or Duty; and that it should be lawful to and for the said Commissioners to reduce or lessen any of the Tolls granted and made payable by said Act, and also from Time to Time to advance and raise such Tolls, Rates, and Duties, provided that such Tolls should not exceed the Tolls thereby authorized; and said Commissioners were also by said Act empowered to borrow Money at Interest upon the Credit of said Tolls, or to borrow Money on Debentures of One hundred Pounds each repayable with Interest at the Rate of Ten Pounds per Centum per Annum: And whereas by Indenture of Mortgage, bearing Date the Twenty-eighth Day of July One thousand eight hundred and thirty, and made between James Ellis Green, Samuel Allen, Benjamin Jackson, and Roger Dartnell, being the major Part of the Commissioners present that Day, who were named and appointed Commissioners in and by the said recited Act of the Ninth Year of the Reign of His late Majesty King George the Fourth, present at a Meeting of the said Commissioners, held in pursuance of the said Act at Youghal on the said Twenty-eighth Day of July One thousand eight hundred and thirty, of the One Part, and John Galloway, Secretary to the Commissioners appointed under and by virtue of an Act of Parliament made and passed in the Fifty-seventh Year of the Reign of His late Majesty King George the Third, intituled "An "Act to authorize the Issue of Exchequer Bills, and the Advance "of Money out of the Consolidated Fund to a limited Amount, "for the carrying on of Public Works and Fisheries in the United "Kingdom, and Employment of the Poor in Great Britain," and also by virtue of certain other Acts therein referred to, it was witnessed that in consideration of the Proposals and Agreements therein-before mentioned, and also in consideration of the Covenants and Agreements therein-after contained, and of the Sum of Ten thousand Pounds Sterling agreed to be advanced to the said Bridge Commissioners by the said Loan Commissioners, and in further consideration of the Sum of Ten Shillings, they the said Bridge Commissioners granted, bargained, sold, assigned, transferred, and made over unto the said John Galloway (Secretary), in trust for the said Loan Commissioners, all that and those the said Bridge, and all and singular the Rates, Rents, Tolls, Duties, and Profits so authorized to be raised, levied, collected, and paid by virtue of the said recited Act of the Ninth George the Fourth, and all the Right, Title, and Interest of them, said Bridge Commissioners, to the same; to hold the said Bridge, and the

Rates, Rents, Tolls, Duties, and Profits, and all the Sums of Money payable pursuant to the said Act of the Ninth George the Fourth therein recited, unto the said John Galloway, Secretary as aforesaid, his Executors, Administrators, and Assigns, for the Term of Nine hundred and ninety-nine Years, upon trust for the said Loan Commissioners and their Successors, subject to the Covenant or Condition of Redemption upon Payment of the said Sum of Ten thousand Pounds and Interest as therein mentioned: And whereas the said Sum of Ten thousand Pounds was advanced and paid to the said Bridge Commissioners, and applied in the Erection of the said Bridge and Approaches authorized by the said recited Act: And whereas the said recited Mortgage and all Monies secured thereby were afterwards transferred to and became legally vested in the Commissioners of Public Works in Ireland: And whereas there is now due and owing on Foot of the said recited Mortgage the Principal Sum of Ten thousand Pounds, together with Interest thereon up to the Thirty-first December last the Sum of Ten thousand six hundred and eighty-five Pounds Nine Shillings and Twopence, making together the Sum of Twenty thousand six hundred and eighty-five Pounds Nine Shillings and Twopence, which is the First Charge on the said Bridge and the Tolls thereof: And whereas the said Commissioners, in pursuance of the Powers given by the said recited Act, also raised a further Sum of Eight thousand three hundred Pounds by Debentures, which said last-mentioned Sum, together with an Arrear of Interest, is still due and owing on the Security of the Tolls of the said Bridge: And whereas by reason of the Insufficiency of the Tolls of the said Bridge, not only for Payment of the Interest of the said Debts, but also to preserve the said Bridge and its Approaches in proper Repair, there is Danger of the said Bridge becoming impassable, whereby the Security for the said Debts and Interest would be wholly lost: And whereas it would be a great Advantage to the Public if the said Bridge and the Approaches thereto were repaired, and the said Bridge were opened free from Toll, at the joint Expense of the said Counties of Cork and Waterford, between which the same is situate: And whereas to facilitate the Transfer of the Property of the Commissioners under the said Act, or of any other Person in the said Bridge, and the Tolls thereof to the Grand Juries of the said Counties of Cork and Waterford, or to some Person on their Behalf, for the Purposes aforesaid, it is expedient to enable the Commissioners of Her Majesty's Treasury to compound the said Mortgage Debt and the Interest due on Foot thereof as aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present

1 & 2 W. 4. c. 33. s. 103.

present Parliament assembled, and by the Authority of the same, as follows:

Provision for compounding Debt due by Commissioners of Blackwater Bridge to Treasury for 2,500*l.*

1. Whenever for the Purpose of repairing the said Bridge across the River Blackwater at or near Foxhole and the Town of Youghal, and opening the same free from Toll, the Grand Juries of the said Counties of Cork and Waterford shall, under the Provisions of any Act or Acts them in that Behalf enabling, proceed to purchase or take the Property of the Commissioners under the said Act, or of any other Person in the said Bridge, and the Tolls thereof, and such Property shall have been purchased or taken subject to the Rights of the said Commissioners of Public Works in respect of the said Mortgage Debt and the Interest due on Foot thereof secured by the said Indenture of the Twenty-eighth Day of July One thousand eight hundred and thirty, it shall be lawful for the Commissioners of Her Majesty's Treasury to compound the said Mortgage Debt and the Interest due on Foot thereof at and for the Sum of *Two thousand five hundred Pounds*, and upon Payment of the said Sum of *Two thousand five hundred Pounds* to the said Commissioners of Public Works the Residue of the Term of Nine hundred and ninety-nine Years created by the said Indenture shall be vested in the said Commissioners of Public Works, upon trust to transfer the said Bridge to the said Grand Juries of the Counties of Cork and Waterford for the Purposes aforesaid, and the Passage of the said Bridge shall be open and free to all Persons, Carriages, Cattle, and Animals whatsoever.

Blackwater Bridge.

A

B I L L

To authorize the Commissioners of Her Majesty's Treasury to compound the Public Debt due by the Commissioners of the Bridge across the River Blackwater near the Town of Youghal in the County of Cork, and for the Transfer of the said Bridge to the Grand Juries of the Counties of Cork and Waterford; and for other Purposes relating thereto.

(*Prepared and brought in by Mr. Dodson, Lord Naas, and Mr. Hunt.*)

Ordered, by The House of Commons, *to be Printed*, 15 *May* 1867.

[Bill 156.]

Under 1 *oz*

A

B I L L

TO

Afford further Facilities for the Erection of certain Bridges in Ireland.

WHEREAS an Act was passed in the Session of Parliament holden in the Fourth and Fifth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the more effectually providing for the Erection of "certain Bridges in Ireland:" Preamble. 4 & 5 W. 4. c. 61.

And whereas it is expedient to amend the same, and to afford Facilities for the Purchase or taking of any Property in any Bridge or Ferry, or in the Tolls thereof, which may be necessary for the Purposes of the said Act, and for making Presentment for the Monies requisite therefor:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. This Act shall extend only to Ireland. Extent of Act.

2. In the Construction of this Act the Expression "Lord Lieutenant" shall mean Lord Lieutenant or other Chief Governor or Governors of Ireland. Interpretation.

Grand Jury may apply by Memorial for Powers to purchase Property in Bridges, &c.

3. Whenever, for the Purpose of making or improving any Bridge under the Provisions of the recited Act, it shall be necessary to purchase or take the Property in any Bridge or Ferry or the Tolls thereof, it shall be lawful for the Grand Juries of the respective Counties between which the said Bridge is proposed to be made, or between which the said Bridge is situate, to consent to the Purchase or taking of such Property for the Purposes aforesaid, subject to the Provisions of this Act, and to signify such Consent by a Resolution entered on the Record of their Proceedings.

When such Grand Juries shall have signified such Consent as aforesaid, it shall be lawful for either of such Grand Juries to state in a Memorial under the Provisions of the recited Act, in addition to the Matters by the said Act required, the Nature and Particulars of the Property necessary to be purchased or taken as aforesaid, the Necessity therefor, and the Consent of the said Grand Juries thereto, as aforesaid; and thereupon it shall be lawful for the Lord Lieutenant to direct that the Person or Persons to be appointed under the Provisions of the recited Act shall, in addition to the Matters by the said Act directed, inquire into the Necessity and Propriety for the Purposes of the said Work of purchasing or taking the said Property, and the probable Cost of such Purchase, and thereupon all the Provisions of the recited Act, save so far as they are expressly altered or varied by this Act, shall extend and be applicable thereto.

Lord Lieutenant empowered to direct Inquiry as to Necessity of such Purchase.

Lord Lieutenant empowered to order Property to be purchased or taken.

4. It shall be lawful for the Lord Lieutenant, if the Person or Persons directed to make Inquiry as to the Necessity and Propriety of the Purchase of the said Property shall so recommend, when he shall make an Order under the Fourth Section of the recited Act, to order that the said Property shall be purchased or taken subject to the Provisions of this Act, and for the Purposes thereof.

Secretary of Grand Jury to make out Statement of Property.

5. When the Lord Lieutenant shall have made such Order as aforesaid, the Secretary of the Grand Jury which shall have presented the said Memorial shall cause to be made out a Statement of the Nature of the said Property, together with the Names of the Owners or reputed Owners, Lessees or reputed Lessees, thereof, and shall deposit the said Statement at the Office of the Chief or Under Secretary to the Lord Lieutenant.

Power to appoint a Valuator.

6. After such Deposit at the Office of the Chief or Under Secretary as aforesaid, it shall be lawful for the Lord Lieutenant to appoint a fit Person to be a Valuator for the Purpose of ascertaining the Value of the Property to be purchased or taken under this Act, and to fix the Remuneration to be paid to him; and if any such Valuator die, or refuse or become incapable to act, the Lord Lieutenant

Lieutenant may, as often as the same may happen, appoint a Valuator in his Place, who shall have the same Powers and Authorities as the Valuator first appointed.

Valuator may call for Documents and administer Oaths.

7. The Valuator may call for the Production of any Documents in the Possession or Power of the said Grand Juries, or of any Person on their Behalf, or of the Owners of the Property to be purchased or taken under the Provisions of this Act, which such Valuator may think necessary for determining any Question or Matter to be determined by him under this Act, and may examine Witnesses on Oath, and administer the Oaths necessary for that Purpose.

Valuator to make and subscribe Declaration.

8. Before the Valuator shall enter upon any Inquiry, he shall in the Presence of a Justice of the Peace make and subscribe the following Declaration:

'I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of "The Bridges (Ireland) Act."

'Made and subscribed in the Presence of .'

And such Declaration shall be annexed to his Award when made, and if any Valuator, having made such Declaration, shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Statement deposited to be delivered to Valuator.

Notice of Appointment of Valuator, &c. to be published.

9. Upon the Appointment of a Valuator as aforesaid, the Chief or Under Secretary of the Lord Lieutenant shall deliver to such Valuator the Statement deposited at his Office, as herein-before required; and the said Under Secretary shall forthwith after such Appointment cause to be published a Notice of such Appointment and of such Deposit as aforesaid once in the Dublin Gazette, and once in each of Two successive Weeks in some One or more Newspapers circulated in the said Counties, stating the Time and Place of such Deposit, and requiring the Owners of the Property to be purchased or taken for the Purposes of this Act, and specified in such Statement, to deliver to the Valuator, on or before a Day fixed by the Valuator, and named in such Notice (and which Day shall not be earlier than *Seven Days* from the Date of the Insertion of the last of such Newspaper Notices), a short Statement in Writing of their Claims in respect thereof; and upon the Appointment of any Valuator in the Place of a Valuator dying, or refusing, declining, or becoming incapable to act, all the Documents relating to the Matter of the Valuation which were in the Possession of such Valuator shall be delivered to the Valuator appointed in his Place, and the said Under Secretary shall cause to be published a Notice of such Appointment in the Dublin Gazette.

 10. The

Valuator to adjudicate upon Price to be paid for Property.

10. The Valuator shall, after the Expiration of the Period within which such Claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the Value of such Property, and the Purchase Money to be paid for same; and the Valuator shall, after due Inquiry and Examination, frame a Draft Award setting forth the Price or Compensation to be paid for the Property so required; and such Draft Award shall be deposited as herein-before directed concerning the Statement aforesaid; and the Valuator shall cause Notice of such Draft Award to be given to the Persons who shall be entitled to Payment under the same, if such Persons be known to the Valuator, or who shall have been heard before such Valuator as Claimants for Compensation, and shall also cause Notice to be published of such Draft Award once in the Dublin Gazette, and once in each of Two successive Weeks in some One or more Newspapers circulated in the said Counties, and shall in such Notices appoint a Time and Place or Times and Places for holding a Meeting to hear Objections against any such Draft Award (such Meeting to be not earlier than *Ten Days* after the First Day of Publication of the said Notice), and shall hold such Meeting accordingly, and thereat shall hear and determine any Objections which may then and there be made to any such Draft Award by any Person interested therein, or adjourn the further Hearing thereof, if the Valuator shall think fit, to a future Meeting, and may take any Measures which he may deem proper for ascertaining the Value of any such Property, and may from Time to Time, if he shall see Occasion so to do, appoint and hold further Meetings for hearing and determining Objections to any such Draft Award; and when the Valuator has heard and determined all such Objections, and made such Inquiries as he may think necessary in relation thereto, and made such Alterations (if any) as he may deem proper in the Draft Award, he shall make his Award under his Hand and Seal accordingly, and every such Award shall be binding and conclusive, subject to the Provisions herein-after contained, upon all Persons whomsoever, and no such Award shall be set aside for Irregularity in Matter of Form; and a Copy of every such Award shall be deposited with the Clerks of the Peace for the said Counties respectively, and the Secretary of the Grand Jury which shall have presented the said Memorial shall thereupon publish Notice in some Paper circulated in the said Counties once in each of Two successive Weeks of the Deposit of such Award as aforesaid, and requiring all Persons claiming to have any Right to or Interest in the Property the Price to be paid in respect of which is ascertained by such Award to deliver to the Secretary of the Commissioners of Public Works in Ireland, on or before a Day to be named in such Notice (such Day not

not being earlier than *Seven Days* from the Date of the last Publication of the Notice), a short Statement in Writing of the Nature of such Claim, and a short Abstract of the Title on which the same is founded.

Clerk of the Peace required to take charge of Documents deposited, as provided by 7 W. 4. & 1 Vict. c. 83.

11. The Clerks of the Peace aforesaid are hereby required to retain the Documents to be deposited with them under this Act in their Custody respectively, and to permit all Persons interested to inspect the same, and to make Copies and Extracts of and from the same, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided by an Act of the Session holden in the Seventh Year of King William the Fourth and First Year of Her present Majesty, Chapter Eighty-three.

Valuator to certify Costs.

12. It shall be lawful for the Valuator, where he thinks fit, upon the Request of any Party by whom any Claim has been made before him, to certify the Amount of the Costs properly incurred by such Party in relation to the Valuation; and the Remuneration, travelling and other Expenses, of the Valuator, and all other Costs and Expenses (if any) which shall be incurred in carrying the Provisions of this Act into execution, shall be submitted to the Lord Lieutenant for his Approval, and ascertained and certified by such Person as he shall appoint for the Purpose.

Expenses of carrying Act into execution to be submitted to Lord Lieutenant.

Power of Appeal against Award of Valuator.

13. Where any such Grand Jury, or the Person from whom any Property is to be purchased or taken, shall be dissatisfied with the Award made by the Valuator as herein-before mentioned, it shall be lawful for the said Grand Jury or Person to make an Appeal against the same to the Lord Lieutenant or other Chief Governor or Governors in Council; and the Grounds of such Appeal shall be stated in Writing, and signed by the Foreman of such Grand Jury, or by the said Person, and transmitted to the Clerk of the Privy Council; and Notice of every such Appeal shall be inserted by or on behalf of such Grand Jury or Person in the Dublin Gazette once in Two successive Weeks next after such Appeal shall have been lodged with the Clerk of the Council as aforesaid; and it shall be lawful for the Lord Lieutenant, by and with the Advice and Consent of Her Majesty's Privy Council in Ireland, to hear and determine such Appeal, and to make such Order, disallowing or confirming such Award, or for the varying, altering, or modifying the same, and as to the Costs of such Appeal, as shall seem meet.

Purchase Money to be deemed Part of Expenses of Work.

14. It shall be lawful for the Lord Lieutenant to order that the Amount to be paid for the Purchase of any such Property, and the

Costs and Expenses incurred as aforesaid in relation to the said Valuation, or otherwise in carrying the Provisions of this Act into Execution, shall be deemed Part of the Expenses of such Work, and shall be raised, presented, and dealt with in every respect as is by the recited Act provided with regard to the Expenses of the Works therein mentioned, and that when the same shall have been presented the whole or any Part of the Money so presented shall for the more speedy Execution of such Work be advanced to the Commissioners of Public Works in Ireland out of the Monies provided by the recited Act for Advances for the more speedy Execution of Works thereby authorized, and for the Purposes thereof, in the Manner and subject to the Conditions thereby prescribed: Provided always, that it shall be lawful for any Grand Jury by the recited Act or this Act required to present any Sum of Money for the Purposes of the recited Act, or of the same and this Act, to direct that the Amount of such Presentment shall be levied by any Number of half-yearly Instalments not exceeding *Sixty*.

Payment to Persons whose Property is required for the Purposes of this Act.

15. The Commissioners of Public Works in Ireland shall, out of the Monies which shall be paid or advanced to them for the Purpose of such Work, pay to the said Valuator and the said several other Persons respectively the Remuneration, Costs, and Expenses to which they shall be respectively entitled as aforesaid; and also, when it appears to them that any Person claiming any Right or Interest in the Property to be purchased or taken as aforesaid is absolutely entitled to the Estate or Interest claimed by him, they shall out of the said Monies pay to such Person the Sum to which he is entitled under the said Award, upon his giving a Receipt to them for the same, and such Receipt shall have the Effect of transferring all the Estate, Right, and Interest of such Party and of all Parties claiming under or through him in the Property in respect of which such Monies are paid to the said Commissioners, and vesting the same in them, so as such Receipt shall have an ad valorem Stamp of the same Amount impressed thereon in respect of the Purchase Monies mentioned therein as would have been necessary if such Receipt had been an actual Conveyance of such Estate, Right, or Interest, and the Costs of every such Receipt shall be deemed Part of the Expenses of the said Work, and shall be paid in manner herein-before provided.

Receipt for Purchase Money to transfer Property to Commissioners.

Where Parties making claim are unwilling to accept Payment, deemed not entitled, or

16. In case any such Person shall refuse to accept such Payment or give such Receipt as aforesaid, or if it appear to the said Commissioners, from any such Statement of Claim and Abstract as aforesaid or otherwise, that the Party making any such Claim as aforesaid is not absolutely entitled to the Estate or Interest in respect

respect of which his Claim is made, or is under any Disability, or if the Title to such Estate or Interest be not satisfactorily deduced to the said Commissioners free from Incumbrance, then and in every such Case the Amount to be paid by the said Commissioners in respect of such Estate or Interest as aforesaid shall be paid and applied as provided by the Clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making Title; provided that the Expression "The Promoters of the Undertaking" used in the said Clauses of the said Act shall in the Cases contemplated by this Section be construed to mean "The Commissioners of Public Works in Ireland."

are under Disability, or Title not satisfactorily deduced, Mode of Payment to be according to "Lands Clauses Consolidation Act, 1845."

17. It shall be lawful for the said Commissioners to take possession of the said Property and commence the said Work when they shall have made Payment of the Monies to which the Persons who have any Estate or Interest in the said Property are by the said Award declared to be entitled, in the Manner provided by the Fourteenth or Fifteenth Sections of this Act respectively, or, if the said Award is appealed against as is by this Act provided, when they shall have paid the whole Amount of the Monies awarded to all the said Persons into the Bank of Ireland, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there to the Credit of the said Persons and of this Act, and of the Work in respect of which the same is paid, subject to the Control and Disposition of the said Court; and the said Accountant General shall invest all Monies which shall be so paid in the Purchase of Bank Annuities or Government Securities, and allow the same to accumulate until the said Appeal shall have been heard and disposed of, and thereupon it shall be lawful for the Court of Chancery, upon Application by the said Commissioners, and upon Proof that Payment of the Sums to which the said Persons shall have been declared entitled has been duly made in manner herein-before provided, to order the Funds in which the said Money shall have been invested, together with the Accumulation thereof, to be transferred to the said Commissioners; or, in default of such Payment as aforesaid by the said Commissioners, it shall be lawful for the said Court, upon Application of any of the said Persons, to order the same to be applied, in such Manner as it shall think fit, for the Benefit of the Parties for whose Security the same shall have been so paid.

Taking possession of Property.

18. It shall be lawful for the Grand Juries of the respective Counties, in presenting the Amount to be levied off and from their

Power to Grand Juries to present Monies off

Baronies, Townlands, &c.

Counties respectively for the Expenses of any Work under the recited Act, or the same and this Act, to present the same, and the several Instalments, if any, in which the same shall be made payable, to be levied and raised upon and from the Occupiers of Lands, Tenements, and Hereditaments chargeable with the Payment of County Cess or Grand Jury Rates within all or any of the Baronies in such County, or all or any of the Townlands of any such Barony, exclusive of any others of such Baronies or Townlands, and either equably or in such rateable Proportions as, having regard to the Benefits probably to be derived from the Execution of any such Work, such Grand Jury shall consider just: Provided always, that the Occupiers of Lands, Tenements, and Hereditaments chargeable with the Payment of County Cess or Grand Jury Rates within any Barony or Townland who shall consider themselves aggrieved by any such Presentment may make an Appeal to the Lord Lieutenant in such Manner as is herein-before provided in case of Appeals against the said Valuations, and it shall be lawful for the Lord Lieutenant, with the like Consent as aforesaid, to hear and determine such Appeal, and to make such Order varying, altering, or modifying the said Presentment, and as to the Costs of such Appeal, as shall seem meet.

Bridges to be Toll-free.

19. When any such Work shall be completed, the Passage of the said Bridge shall be open to all Persons, Carriages, Horses, Cattle, and other Animals whatsoever, free from all Tolls and Charges whatsoever.

Provisions as to Bridge at New Ross.

20. And whereas a Bridge at New Ross, over the River Barrow (which River is the Boundary between the Counties of Wexford and Kilkenny), the Property of the Commissioners for building a Bridge over the River of Ross, was carried away in the Month of January last, and great public Inconvenience and Loss has resulted therefrom: And whereas the said Bridge was a Toll Bridge, and the Tolls thereof were the Property of the said Commissioners, and the Right of Ferry over the said River is the Property of the said Commissioners, and it is desirable that a free Bridge shall be erected in place thereof, and for such Purposes it is necessary to purchase the said Tolls and Rights of the said Bridge Commissioners: And whereas the Grand Juries of the Counties of Wexford and Kilkenny assembled at the last Spring Assizes, by Resolutions entered on the Record of their respective Proceedings, have signified their Consent to such Purchase, and to the building of a Bridge under the Provisions of the recited Act, in place of that which was destroyed as aforesaid, and have respectively presented Memorials to His Excellency the Lord Lieutenant of Ireland under the Provisions

visions of the recited Act, and have stated therein, in addition to the several Matters by the recited Act required, the Nature and Particulars of the Property necessary to be purchased, and the Necessity of such Purchase: Be it therefore enacted, That the said Resolutions shall be as valid and effectual to signify the Consent herein-before required as if such Consent had been given and signified, and such Resolutions had been passed and entered, after the passing of and under the Provisions of this Act, and that the said Memorials shall also be as valid and effectual as if the same had been presented under the Provisions of the recited Act and this Act, and all the Acts and Proceedings herein-before provided shall and may be done, had, and taken thereupon accordingly; and for the Purposes of this Act the Grand Jury of the County of Wexford shall be deemed to be the Grand Jury which shall have presented the Memorial, and the Secretary of such Grand Jury shall be the Officer to do all Acts herein-before provided to be done by the Secretary of the Grand Jury presenting a Memorial under this Act.

A

BILL

To afford further Facilities for the Erection of certain Bridges in Ireland.

(*Prepared and brought in by Mr. Solicitor General for Ireland and Lord Naas.*)

Ordered, by The House of Commons, *to be Printed,* 22 *March* 1867.

[Bill 86.]

Under 2 *oz.*

substituted for the Bill already delivered.]

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Afford further Facilities for the Erection of certain Bridges in Ireland.

WHEREAS an Act was passed in the Session of Parliament holden in the Fourth and Fifth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the more effectually providing for the Erection of certain Bridges in Ireland," which Act was amended by another Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, intituled "An Act to extend and amend the Provisions of the Acts for the Extension and Promotion of Public Works in Ireland, and for the Recovery of Public Monies advanced for the Use of Counties, Parishes, and other Districts in Ireland on the Faith of Grand Jury Presentments and Parochial Assessments:" Preamble. 4 & 5 W. 4. c. 61.

And whereas it is expedient to amend the same, and to afford Facilities for the Purchase or taking of any Property in any Bridge or Ferry, or in the Tolls thereof, which may be necessary for the Purposes of the said Acts, and for making Presentment for the Monies requisite therefor:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and

Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Extent of Act.

1. This Act shall extend only to Ireland.

Interpretation.

2. In the Construction of this Act the Expression "Lord Lieutenant" shall mean Lord Lieutenant or other Chief Governor or Governors of Ireland.

Grand Jury may apply by Memorial for Powers to purchase Property in Bridges, &c.

3. Whenever, for the Purpose of making or improving any Bridge under the Provisions of the recited Acts, it shall be necessary to purchase or take the Property in any Bridge or Ferry or the Tolls thereof, it shall be lawful for the Grand Juries of the respective Counties between which the said Bridge is proposed to be made, or between which the said Bridge is situate, to consent to the Purchase or taking of such Property for the Purposes aforesaid, subject to the Provisions of this Act, and to signify such Consent by a Resolution entered on the Record of their Proceedings.

When such Grand Juries shall have signified such Consent as aforesaid, it shall be lawful for either of such Grand Juries to state in the Memorial under the Provisions of the first-recited Act, in addition to the Matters by the said Act required, the Nature and Particulars of the Property necessary to be purchased or taken as aforesaid, the Necessity therefor, and the Consent of the said Grand Juries thereto, as aforesaid; and thereupon it shall be lawful for the Lord Lieutenant to direct that the Person or Persons to be appointed under the Provisions of the said Act shall, in addition to the Matters by the said Act directed, inquire into the Necessity and Propriety for the Purposes of the said Work of purchasing or taking the said Property, and the probable Cost of such Purchase, and thereupon all the Provisions of the recited Acts, save so far as they are expressly altered or varied by this Act, shall extend and be applicable thereto.

Lord Lieutenant empowered to direct Inquiry as to Necessity of such Purchase.

Lord Lieutenant empowered to order Property to be purchased or taken.

4. It shall be lawful for the Lord Lieutenant, if the Person or Persons directed to make Inquiry as to the Necessity and Propriety of the Purchase of the said Property shall so recommend, when he shall make an Order under the Fourth Section of the first-recited Act, to order that the said Property shall be purchased or taken subject to the Provisions of this Act, and for the Purposes thereof.

Secretary of Grand Jury to make out Statement of Property.

5. When the Lord Lieutenant shall have made such Order as aforesaid, the Secretary of the Grand Jury which shall have presented the said Memorial shall cause to be made out a Statement of

of the Nature of the said Property, together with the Names of the Owners or reputed Owners, Lessees or reputed Lessees thereof, and shall deposit the said Statement at the Office of the Commissioners of Public Works in Ireland.

Power to appoint a Valuator.

6. After such Deposit at the Office of the said Commissioners as aforesaid, it shall be lawful for the said Commissioners, on the Requisition of the Lord Lieutenant, to appoint a fit Person to be a Valuator for the Purpose of ascertaining the Value of the Property to be purchased or taken under this Act, and to fix the Remuneration to be paid to him; and if any such Valuator die, or refuse or become incapable to act, the said Commissioners may, as often as the same may happen, appoint a Valuator in his Place, who shall have the same Powers and Authorities as the Valuator first appointed.

Valuator may call for Documents and administer Oaths.

7. The Valuator may call for the Production of any Documents in the Possession or Power of the said Grand Juries, or of any Person on their Behalf, or of the Owners of the Property to be purchased or taken under the Provisions of this Act, which such Valuator may think necessary for determining any Question or Matter to be determined by him under this Act, and may examine Witnesses on Oath, and administer the Oaths necessary for that Purpose.

Valuator to make and subscribe Declaration.

8. Before the Valuator shall enter upon any Inquiry, he shall in the Presence of a Justice of the Peace make and subscribe the following Declaration:

'I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of "The Bridges (Ireland) Act."

'Made and subscribed in the Presence of .'

And such Declaration shall be annexed to his Award when made, and if any Valuator, having made such Declaration, shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Statement deposited to be delivered to Valuator.

Notice of Appointment of Valuator, &c. to be published.

9. Upon the Appointment of a Valuator as aforesaid, the said Commissioners of Public Works in Ireland shall deliver to such Valuator the Statement deposited at their Office, as herein-before required; and the said Commissioners shall forthwith after such Appointment cause to be published a Notice of such Appointment and of such Deposit as aforesaid once in the Dublin Gazette, and once in each of Two successive Weeks in some One or more Newspapers circulated in the said Counties, stating the Time and Place of such Deposit, and requiring the Owners of the Property to be purchased or taken for the Purposes of this Act, and specified in

such Statement, to deliver to the Valuator, on or before a Day fixed by the Valuator, and named in such Notice (and which Day shall not be earlier than Seven Days from the Date of the Insertion of the last of such Newspaper Notices), a short Statement in Writing of their Claims in respect thereof; and upon the Appointment of any Valuator in the Place of a Valuator dying, or refusing, declining, or becoming incapable to act, all the Documents relating to the Matter of the Valuation which were in the Possession of such Valuator shall be delivered to the Valuator appointed in his Place, and the said Commissioners shall cause to be published a Notice of such Appointment in the Dublin Gazette.

Valuator to adjudicate upon Price to be paid for Property.

10. The Valuator shall, after the Expiration of the Period within which such Claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the Value of such Property, and the Purchase Money to be paid for same; and the Valuator shall, after due Inquiry and Examination, frame a Draft Award setting forth the Price or Compensation to be paid for the Property so required; and such Draft Award shall be deposited as herein-before directed concerning the Statement aforesaid; and the Valuator shall cause Notice of such Draft Award to be given to the Persons who shall be entitled to Payment under the same, if such Persons be known to the Valuator, or who shall have been heard before such Valuator as Claimants for Compensation, and shall also cause Notice to be published of such Draft Award once in the Dublin Gazette, and once in each of Two successive Weeks in some One or more Newspapers circulated in the said Counties, and shall in such Notices appoint a Time and Place or Times and Places for holding a Meeting to hear Objections against any such Draft Award (such Meeting to be not earlier than Ten Days after the First Day of Publication of the said Notice), and shall hold such Meeting accordingly, and thereat shall hear and determine any Objections which may then and there be made to any such Draft Award by any Person interested therein, or adjourn the further Hearing thereof, if the Valuator shall think fit, to a future Meeting, and may take any Measures which he may deem proper for ascertaining the Value of any such Property, and may from Time to Time, if he shall see Occasion so to do, appoint and hold further Meetings for hearing and determining Objections to any such Draft Award; and when the Valuator has heard and determined all such Objections, and made such Inquiries as he may think necessary in relation thereto, and made such Alterations (if any) as he may deem proper in the Draft Award, he shall make his Award under his Hand and Seal accordingly, and every such Award shall be binding and conclusive, subject to the

Provisions

Provisions herein-after contained, upon all Persons whomsoever, and no such Award shall be set aside for Irregularity in Matter of Form; and a Copy of every such Award shall be deposited with the Clerks of the Peace for the said Counties respectively, and the said Commissioners of Public Works shall thereupon publish Notice in some Paper circulated in the said Counties once in each of Two successive Weeks of the Deposit of such Award as aforesaid, and requiring all Persons claiming to have any Right to or Interest in the Property the Price to be paid in respect of which is ascertained by such Award to deliver to the Secretary of the Commissioners of Public Works in Ireland, on or before a Day to be named in such Notice (such Day not being earlier than Seven Days from the Date of the last Publication of the Notice), a short Statement in Writing of the Nature of such Claim, and a short Abstract of the Title on which the same is founded.

Clerk of the Peace required to take charge of Documents deposited, as provided by 7 W. 4. & 1 Vict. c. 83.

11. The Clerks of the Peace aforesaid are hereby required to retain the Documents to be deposited with them under this Act in their Custody respectively, and to permit all Persons interested to inspect the same, and to make Copies and Extracts of and from the same, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided by an Act of the Session holden in the Seventh Year of King William the Fourth and First Year of Her present Majesty, Chapter Eighty-three.

Valuator to certify Costs.

Expenses of carrying Act into execution to be submitted to Lord Lieutenant.

12. It shall be lawful for the Valuator, where he thinks fit, upon the Request of any Party by whom any Claim has been made before him, to certify the Amount of the Costs properly incurred by such Party in relation to the Valuation; and the Remuneration, travelling and other Expenses, of the Valuator, and all other Costs and Expenses (if any) which shall be incurred in carrying the Provisions of this Act into execution, shall be submitted to the Lord Lieutenant for his Approval, and ascertained and certified by such Person as he shall appoint for the Purpose.

Power of Appeal against Award of Valuator.

13. Where any such Grand Jury, or the Person from whom any Property is to be purchased or taken, shall be dissatisfied with the Award made by the Valuator as herein-before mentioned, it shall be lawful for the said Grand Jury at the Assizes next following the Publication of said Award to direct an Appeal to be made against such Award; and said Appeal shall be in Writing, stating the Grounds thereof, and shall be signed by the Foreman of such Grand Jury, and shall be lodged with the Clerk of the Privy Council within One Month after the said Appeal shall have been so directed, but not after; and it shall be lawful for such

Person as aforesaid who shall be dissatisfied with said Award within One Month after the Publication thereof, but not after, to make an Appeal against the same; and such Appeal shall be in Writing, stating the Grounds thereof, and shall be signed by such Person, and shall within such Month be lodged with the said Clerk of the Privy Council; and it shall be lawful for the Lord Lieutenant, by and with the Advice and Consent of Her Majesty's Privy Council in Ireland, to hear and determine such Appeal, and to make such Order, disallowing or confirming such Award, or for the varying, altering, or modifying the same, and as to the Costs of such Appeal, as shall seem meet.

Purchase Money to be deemed Part of Expenses of Work.

14. It shall be lawful for the Lord Lieutenant to order that the Amount to be paid for the Purchase of any such Property, and the Costs and Expenses incurred as aforesaid in relation to the said Valuation, or otherwise in carrying the Provisions of this Act into execution, shall be and same accordingly shall be deemed Part of the Expenses of the Work for the Purposes of which such Purchase Money is to be paid, and Costs and Expenses incurred, and shall be raised, presented, and dealt with in every respect as is by the recited Acts provided with regard to the Expenses of the Works therein mentioned; and upon such Presentment having been made it shall be lawful for the Commissioners of Public Works in Ireland out of any Monies at their Disposal available for Loans, with the Consent of the Commissioners of Her Majesty's Treasury, to issue and advance the whole or any Part of the Money so presented, and apply the same to the Purchase of such Property, to the Construction of such Work, and to the Payment of the Costs and Expenses incurred as aforesaid, or otherwise in carrying this Act into effect: Provided always, that it shall be lawful for any Grand Jury by the recited Acts or this Act required to present any Sum of Money for the Purposes of the recited Acts, or of the same and this Act, to direct that the Amount of such Presentment shall be levied by any Number of half-yearly Instalments not exceeding Forty-four.

Payment to Persons whose Property is required for the Purposes of this Act.

15. The Commissioners of Public Works in Ireland shall, out of the Monies available for the Purpose of such Work, pay to the said Valuator and the said several other Persons respectively the Remuneration, Costs, and Expenses to which they shall be respectively entitled as aforesaid; and also, when it appears to them that any Person claiming any Right or Interest in the Property to be purchased or taken as aforesaid is absolutely entitled to the Estate or Interest claimed by him, they shall out of the said Monies pay to such Person the Sum to which he is entitled under the said Award, upon his giving a Receipt to them

them for the same, and such Receipt shall have the Effect of transferring all the Estate, Right, and Interest of such Party and of all Parties claiming under or through him in the Property in respect of which such Monies are paid to the said Commissioners, and vesting the same in them, so as such Receipt shall have an ad valorem Stamp of the same Amount impressed thereon in respect of the Purchase Monies mentioned therein as would have been necessary if such Receipt had been an actual Conveyance of such Estate, Right, or Interest, and the Costs of every such Receipt shall be deemed Part of the Expenses of the said Work, and shall be paid in manner herein-before provided.

Receipt for Purchase Money to transfer Property to Commissioners.

16. In case any such Person shall refuse to accept such Payment or give such Receipt as aforesaid, or if it appear to the said Commissioners, from any such Statement of Claim and Abstract as aforesaid or otherwise, that the Party making any such Claim as aforesaid is not absolutely entitled to the Estate or Interest in respect of which his Claim is made, or is under any Disability, or if the Title to such Estate or Interest be not satisfactorily deduced to the said Commissioners free from Incumbrance, then and in every such Case the Amount to be paid by the said Commissioners in respect of such Estate or Interest as aforesaid shall be paid and applied as provided by the Clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making Title; provided that the Expression "the Promoters of the Undertaking" used in the said Clauses of the said Act shall in the Cases contemplated by this Section be construed to mean "the Commissioners of Public Works in Ireland."

Where Parties making claim are unwilling to accept Payment, deemed not entitled, or are under Disability, or Title not satisfactorily deduced, Mode of Payment to be according to "Lands Clauses Consolidation Act, 1845."

17. It shall be lawful for the said Commissioners to take possession of the said Property and commence the said Work when they shall have made Payment of the Monies to which the Persons who have any Estate or Interest in the said Property are by the said Award declared to be entitled, in the Manner provided by the Fifteenth or Sixteenth Sections of this Act respectively, or, if the said Award is appealed against as is by this Act provided, when they shall have paid the whole Amount of the Monies awarded to all the said Persons into the Bank of Ireland, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there to the Credit of the said Persons and of this Act, and of the Work in respect of which the same is paid, subject to the Control and Disposition of the said Court; and the said Accountant General shall invest all Monies which shall be so paid in the Purchase of Bank Annuities or

Taking possession of Property.

Government Securities, and allow the same to accumulate until the said Appeal shall have been heard and disposed of, and thereupon it shall be lawful for the Court of Chancery, upon Application by the said Commissioners, and upon Proof that Payment of the Sums to which the said Persons shall have been declared entitled has been duly made in manner herein-before provided, to order the Funds in which the said Money shall have been invested, together with the Accumulation thereof, to be transferred to the said Commissioners; or, in default of such Payment as aforesaid by the said Commissioners, it shall be lawful for the said Court, upon Application of any of the said Persons, to order the same to be applied, in such Manner as it shall think fit, for the Benefit of the Parties for whose Security the same shall have been so paid: Provided always, that in the event of any Sum being required for the Purposes of this Section in addition to the Sum which shall have been paid into the Bank of Ireland in manner aforesaid, such Sum shall, when certified as necessary by the said Commissioners of Public Works to the Grand Juries liable to contribute towards defraying the Expenses of the said Work, be presented by the said Grand Juries in the like Proportion as the Sums presented by them respectively for the said Expenses of the said Work.

Power to Grand Juries to present Monies off Baronies, Townlands, &c.

18. It shall be lawful for the Grand Juries of the respective Counties, in presenting the Amount to be levied off and from their Counties respectively for the Expenses of any Work under the recited Acts, or the same and this Act, to present the same, and the several Instalments, if any, in which the same shall be made payable, to be levied and raised upon and from the Occupiers of Lands, Tenements, and Hereditaments chargeable with the Payment of County Cess or Grand Jury Rates within all or any of the Baronies in such County, or all or any of the Townlands of any such Barony, exclusive of any others of such Baronies or Townlands, and either equably or in such rateable Proportions as, having regard to the Benefits probably to be derived from the Execution of any such Work, such Grand Jury shall consider just: Provided always, that the Occupiers of Lands, Tenements, and Hereditaments chargeable with the Payment of County Cess or Grand Jury Rates within any Barony or Townland who shall consider themselves aggrieved by any such Presentment may, within One Month after such Presentment shall have been made, but not after, make an Appeal to the Lord Lieutenant in such Manner as is herein-before provided in case of Appeals against the said Valuations, and it shall be lawful for the Lord Lieutenant, with the like Consent as aforesaid, to hear and determine such Appeal, and to make such Order varying, altering, or modifying the said Presentment, and as to the Costs of such Appeal, as shall seem meet.

19. When

Bridges to be Toll-free.

19. When any such Work shall be completed, the Passage of the said Bridge shall be open to all Persons, Carriages, Horses, Cattle, and other Animals whatsoever, free from all Tolls and Charges whatsoever.

Provisions as to Bridge at New Ross.

20. And whereas a Bridge at New Ross, over the River Barrow (which River is the Boundary between the Counties of Wexford and Kilkenny), the Property of the Commissioners for building a Bridge over the River of Ross, was partly carried away in the Month of January last, and great public Inconvenience and Loss has resulted therefrom: And whereas the Tolls of said Bridge are the Property of the said Commissioners, and the Right of Ferry over the said River is the Property of the said Commissioners, and it is desirable that a free Bridge shall be erected in place thereof, and for such Purposes it is necessary to purchase the Property of the said Bridge Commissioners: And whereas the Grand Juries of the Counties of Wexford and Kilkenny assembled at the last Spring Assizes, by Resolutions entered on the Record of their respective Proceedings, have signified their Consent to such Purchase, and to the building of a Bridge under the Provisions of the recited Act, in place of that which was destroyed as aforesaid, and have respectively presented Memorials to His Excellency the Lord Lieutenant of Ireland under the Provisions of the recited Act, and have stated therein, in addition to the several Matters by the recited Act required, the Nature and Particulars of the Property necessary to be purchased, and the Necessity of such Purchase: Be it therefore enacted, That the said Resolutions shall be as valid and effectual to signify the Consent herein-before required as if such Consent had been given and signified, and such Resolutions had been passed and entered, after the passing of and under the Provisions of this Act, and that the said Memorials shall also be as valid and effectual as if the same had been presented under the Provisions of the recited Act and this Act, and all the Acts and Proceedings herein-before provided shall and may be done, had, and taken thereupon accordingly; and for the Purposes of this Act the Grand Jury of the County of Wexford shall be deemed to be the Grand Jury which shall have presented the Memorial, and the Secretary of such Grand Jury shall be the Officer to do all Acts herein-before provided to be done by the Secretary of the Grand Jury presenting a Memorial under this Act; and that in ascertaining the Purchase Money to be paid to the said Commissioners the Value of all the Property to be taken from them shall be included, and no further Obligation shall rest on the said Commissioners to restore the said Bridge.

Bridges (Ireland).

A

BILL

[AS AMENDED IN COMMITTEE]

To afford further Facilities for the Erection of certain Bridges in Ireland.

(*Prepared and brought in by Mr. Solicitor General for Ireland and Lord Naas.*)

Ordered, by The House of Commons, *to be Printed*, 9 *May* 1867.

[Bill 140.]

Under 2 oz.

A

BILL

[AS AMENDED IN COMMITTEE ON RE-COMMITMENT]

TO

Afford further Facilities for the Erection of certain Bridges in Ireland.

WHEREAS an Act was passed in the Session of Parliament holden in the Fourth and Fifth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for the more effectually providing for the Erection of "certain Bridges in Ireland," which Act was amended by another Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, intituled "An "Act to extend and amend the Provisions of the Acts for the "Extension and Promotion of Public Works in Ireland, and for the "Recovery of Public Monies advanced for the Use of Counties, "Parishes, and other Districts in Ireland on the Faith of Grand "Jury Presentments and Parochial Assessments :" Preamble. 4 & 5 W. 4. c. 61

And whereas it is expedient to amend the same, and to afford Facilities for the Purchase or taking of any Property in any Bridge or Ferry, or in the Tolls thereof, which may be necessary for the Purposes of the said Acts, and for making Presentment for the Monies requisite therefor :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and

Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Extent of Act.

1. This Act shall extend only to Ireland.

Interpretation.

2. In the Construction of this Act the Expression "Lord Lieutenant" shall mean Lord Lieutenant or other Chief Governor or Governors of Ireland.

Grand Jury may apply by Memorial for Powers to purchase Property in Bridges, &c.

3. Whenever, for the Purpose of making or improving any Bridge under the Provisions of the recited Acts, it shall be necessary to purchase or take the Property in any Bridge or Ferry or the Tolls thereof, it shall be lawful for the Grand Juries of the respective Counties between which the said Bridge is proposed to be made, or between which the said Bridge is situate, to consent to the Purchase or taking of such Property for the Purposes aforesaid, subject to the Provisions of this Act, and to signify such Consent by a Resolution entered on the Record of their Proceedings.

When such Grand Juries shall have signified such Consent as aforesaid, it shall be lawful for either of such Grand Juries to state in the Memorial under the Provisions of the first-recited Act, in addition to the Matters by the said Act required, the Nature and Particulars of the Property necessary to be purchased or taken as aforesaid, the Necessity therefor, and the Consent of the said Grand Juries thereto, as aforesaid; and thereupon it shall be lawful for the Lord Lieutenant to direct that the Person or Persons to be appointed under the Provisions of the said Act shall, in addition to the Matters by the said Act directed, inquire into the Necessity and Propriety for the Purposes of the said Work of purchasing or taking the said Property, and the probable Cost of such Purchase, and thereupon all the Provisions of the recited Acts, save so far as they are expressly altered or varied by this Act, shall extend and be applicable thereto.

Lord Lieutenant empowered to direct Inquiry as to Necessity of such Purchase.

Lord Lieutenant empowered to order Property to be purchased or taken.

4. It shall be lawful for the Lord Lieutenant, if the Person or Persons directed to make Inquiry as to the Necessity and Propriety of the Purchase of the said Property shall so recommend, when he shall make an Order under the Fourth Section of the first-recited Act, to order that the said Property shall be purchased or taken subject to the Provisions of this Act, and for the Purposes thereof.

Secretary of Grand Jury to make out Statement of Property.

5. When the Lord Lieutenant shall have made such Order as aforesaid, the Secretary of the Grand Jury which shall have presented the said Memorial shall cause to be made out a Statement of

of the Nature of the said Property, together with the Names of the Owners or reputed Owners, Lessees or reputed Lessees thereof, and shall deposit the said Statement at the Office of the Commissioners of Public Works in Ireland.

Power to appoint a Valuator.

6. After such Deposit at the Office of the said Commissioners as aforesaid, it shall be lawful for the said Commissioners, on the Requisition of the Lord Lieutenant, to appoint a fit Person to be a Valuator for the Purpose of ascertaining the Value of the Property to be purchased or taken under this Act, and to fix the Remuneration to be paid to him; and if any such Valuator die, or refuse or become incapable to act, the said Commissioners may, as often as the same may happen, appoint a Valuator in his Place, who shall have the same Powers and Authorities as the Valuator first appointed.

Valuator may call for Documents and administer Oaths.

7. The Valuator may call for the Production of any Documents in the Possession or Power of the said Grand Juries, or of any Person on their Behalf, or of the Owners of the Property to be purchased or taken under the Provisions of this Act, which such Valuator may think necessary for determining any Question or Matter to be determined by him under this Act, and may examine Witnesses on Oath, and administer the Oaths necessary for that Purpose.

Valuator to make and subscribe Declaration.

8. Before the Valuator shall enter upon any Inquiry, he shall in the Presence of a Justice of the Peace make and subscribe the following Declaration:

'I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of "The Bridges (Ireland) Act."

'Made and subscribed in the Presence of .'

And such Declaration shall be annexed to his Award when made, and if any Valuator, having made such Declaration, shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

Statement deposited to be delivered to Valuator.

Notice of Appointment of Valuator, &c. to be published.

9. Upon the Appointment of a Valuator as aforesaid, the said Commissioners of Public Works in Ireland shall deliver to such Valuator the Statement deposited at their Office, as herein-before required; and the said Commissioners shall forthwith after such Appointment cause to be published a Notice of such Appointment and of such Deposit as aforesaid once in the Dublin Gazette, and once in each of Two successive Weeks in some One or more Newspapers circulated in the said Counties, stating the Time and Place of such Deposit, and requiring the Owners of the Property to be purchased or taken for the Purposes of this Act, and specified in

such Statement, to deliver to the Valuator, on or before a Day fixed by the Valuator, and named in such Notice (and which Day shall not be earlier than Seven Days from the Date of the Insertion of the last of such Newspaper Notices), a short Statement in Writing of their Claims in respect thereof; and upon the Appointment of any Valuator in the Place of a Valuator dying, or refusing, declining, or becoming incapable to act, all the Documents relating to the Matter of the Valuation which were in the Possession of such Valuator shall be delivered to the Valuator appointed in his Place, and the said Commissioners shall cause to be published a Notice of such Appointment in the Dublin Gazette.

Valuator to adjudicate upon Price to be paid for Property.

10. The Valuator shall, after the Expiration of the Period within which such Claims are required to be delivered to him as aforesaid, proceed to inquire into and adjudicate upon the Value of such Property, and the Purchase Money to be paid for same; and the Valuator shall, after due Inquiry and Examination, frame a Draft Award setting forth the Price or Compensation to be paid for the Property so required; and such Draft Award shall be deposited as herein-before directed concerning the Statement aforesaid; and the Valuator shall cause Notice of such Draft Award to be given to the Persons who shall be entitled to Payment under the same, if such Persons be known to the Valuator, or who shall have been heard before such Valuator as Claimants for Compensation, and shall also cause Notice to be published of such Draft Award once in the Dublin Gazette, and once in each of Two successive Weeks in some One or more Newspapers circulated in the said Counties, and shall in such Notices appoint a Time and Place or Times and Places for holding a Meeting to hear Objections against any such Draft Award (such Meeting to be not earlier than Ten Days after the First Day of Publication of the said Notice), and shall hold such Meeting accordingly, and thereat shall hear and determine any Objections which may then and there be made to any such Draft Award by any Person interested therein, or adjourn the further Hearing thereof, if the Valuator shall think fit, to a future Meeting, and may take any Measures which he may deem proper for ascertaining the Value of any such Property, and may from Time to Time, if he shall see Occasion so to do, appoint and hold further Meetings for hearing and determining Objections to any such Draft Award; and when the Valuator has heard and determined all such Objections, and made such Inquiries as he may think necessary in relation thereto, and made such Alterations (if any) as he may deem proper in the Draft Award, he shall make his Award under his Hand and Seal accordingly, and every such Award shall be binding and conclusive, subject to the Provisions

Provisions herein-after contained, upon all Persons whomsoever, and no such Award shall be set aside for Irregularity in Matter of Form; and a Copy of every such Award shall be deposited with the Clerks of the Peace for the said Counties respectively, and the said Commissioners of Public Works shall thereupon publish Notice in some Paper circulated in the said Counties once in each of Two successive Weeks of the Deposit of such Award as aforesaid, and requiring all Persons claiming to have any Right to or Interest in the Property the Price to be paid in respect of which is ascertained by such Award to deliver to the Secretary of the Commissioners of Public Works in Ireland, on or before a Day to be named in such Notice (such Day not being earlier than Seven Days from the Date of the last Publication of the Notice), a short Statement in Writing of the Nature of such Claim, and a short Abstract of the Title on which the same is founded.

Clerk of the Peace required to take charge of Documents deposited, as provided by 7 W. 4. & 1 Vict. c. 83.

11. The Clerks of the Peace aforesaid are hereby required to retain the Documents to be deposited with them under this Act in their Custody respectively, and to permit all Persons interested to inspect the same, and to make Copies and Extracts of and from the same, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided by an Act of the Session holden in the Seventh Year of King William the Fourth and First Year of Her present Majesty, Chapter Eighty-three.

Valuator to certify Costs.

Expenses of carrying Act into execution to be submitted to Lord Lieutenant.

12. It shall be lawful for the Valuator, where he thinks fit, upon the Request of any Party by whom any Claim has been made before him, to certify the Amount of the Costs properly incurred by such Party in relation to the Valuation; and the Remuneration, travelling and other Expenses, of the Valuator, and all other Costs and Expenses (if any) which shall be incurred in carrying the Provisions of this Act into execution, shall be submitted to the Lord Lieutenant for his Approval, and ascertained and certified by such Person as he shall appoint for the Purpose.

Power of Appeal against Award of Valuator.

13. Where any such Grand Jury, or the Person from whom any Property is to be purchased or taken, shall be dissatisfied with the Award made by the Valuator as herein-before mentioned, it shall be lawful for the said Grand Jury at the Assizes next following the Publication of said Award to direct an Appeal to be made against such Award; and said Appeal shall be in Writing, stating the Grounds thereof, and shall be signed by the Foreman of such Grand Jury, and shall be lodged with the Clerk of the Privy Council within One Month after the said Appeal shall have been so directed, but not after; and it shall be lawful for such

Person as aforesaid who shall be dissatisfied with said Award within One Month after the Publication thereof, but not after, to make an Appeal against the same; and such Appeal shall be in Writing, stating the Grounds thereof, and shall be signed by such Person, and shall within such Month be lodged with the said Clerk of the Privy Council; and it shall be lawful for the Lord Lieutenant, by and with the Advice and Consent of Her Majesty's Privy Council in Ireland, to hear and determine such Appeal, and to make such Order, disallowing or confirming such Award, or for the varying, altering, or modifying the same, and as to the Costs of such Appeal, as shall seem meet.

Purchase Money to be deemed Part of Expenses of Work.

14. It shall be lawful for the Lord Lieutenant to order that the Amount to be paid for the Purchase of any such Property, and the Costs and Expenses incurred as aforesaid in relation to the said Valuation, or otherwise in carrying the Provisions of this Act into execution, shall be and same accordingly shall be deemed Part of the Expenses of the Work for the Purposes of which such Purchase Money is to be paid, and Costs and Expenses incurred, and shall be raised, presented, and dealt with in every respect as is by the recited Acts provided with regard to the Expenses of the Works therein mentioned; and upon such Presentment having been made it shall be lawful for the Commissioners of Public Works in Ireland out of any Monies at their Disposal available for Loans, with the Consent of the Commissioners of Her Majesty's Treasury, to issue and advance the whole or any Part of the Money so presented, and apply the same to the Purchase of such Property, to the Construction of such Work, and to the Payment of the Costs and Expenses incurred as aforesaid, or otherwise in carrying this Act into effect: Provided always, that it shall be lawful for any Grand Jury by the recited Acts or this Act required to present any Sum of Money for the Purposes of the recited Acts, or of the same and this Act, to direct that the Amount of such Presentment shall be levied by any Number of half-yearly Instalments not exceeding Forty-four.

Clause A. Appointment of Committee.

15. It shall be lawful for such Grand Juries, in case they shall so think fit, to determine that the building, rebuilding, repairing, widening, enlarging, or improving of any Bridge under the Provisions of the recited Acts, or of the same and this Act, or of the Approaches thereto, and the Execution of all Works relating to the same, may be contracted for, carried on, conducted, and managed by and under the Control and Direction of a Committee appointed in the Manner herein-after provided instead of by the Commissioners of Public Works in Ireland, anything in the recited Acts or this Act to the contrary notwithstanding, and for that Purpose each of the

the said Grand Juries shall appoint Four Persons to act on their Behalf, and all the Persons so appointed shall together be a Committee for contracting for, carrying on, conducting, and managing the Execution of the Work by the recited Acts, or by the same and this Act, authorized to be done; and if any Person so appointed decline to act, die, or resign before such Work shall be completed, it shall be lawful for the Grand Jury by whom such Person was appointed, at the same or any subsequent Assizes, to fill up such Vacancy: Provided that the Powers of the Committee shall not cease nor be suspended while any such Vacancy shall continue.

CLAUSE B. Quorum of Committee.

16. The Powers of the said Committee may at all Times be exercised by any Five Members present at any Meeting duly assembled; and as soon as the Works in relation to which such Committee shall have been appointed shall be completed, and the Accounts of the same finally passed, the Office and Powers of such Committee shall cease and determine.

Powers when to determine.

CLAUSE C. Appointment of Chairman.

17. The said Committee shall at its First Meeting after Appointment elect One of the Members thereof to be Chairman, and in case of the Absence of the Chairman from any Meeting the Members of the Committee then present shall elect One of their Number to be Chairman for the Meeting; and every Question shall be decided by a Majority of Votes, the Chairman (whether permanent or temporary) having a Vote, and in the event of an Equality of Votes on any Question, such Chairman shall have an additional or Casting Vote.

CLAUSE D. Contracts how to be made.

18. It shall be lawful for the said Committee to enter into Contracts for the Execution of the said Work, and every such Contract shall be made, after Advertisement (as herein-after mentioned) for Tenders, by the Acceptance of the Tender at the most reasonable Price, if satisfactory in all other respects, that shall be proposed. The Contractor shall be considered the responsible Person to execute the same. Before entering into any such Contract, the said Committee shall give Notice Three Times at least in a Newspaper circulating in the Counties, by the Grand Juries of which it was appointed, of the Intention to receive Tenders for the Execution of the said Works; and every Contractor shall, before his Contract shall be deemed valid, give Security in double the Amount of the Sum contracted to be paid for such Work for the due Execution thereof, such Security to be subject to Approval by the said Committee.

CLAUSE E. Committee to superintend Execution of Works.

19. The said Committee shall carefully superintend the Execution of any Contract entered into in respect of such Work, and shall take care that the same is well and efficiently carried out by the Contractor, and shall make all such Returns, Reports, and Accounts in relation to the Matters so intrusted to them as the Grand Juries that appointed the said Committee shall direct.

CLAUSE F. Certificate for Payment of Contractor.

20. The said Contract shall state the Stages of the Works at which and the Sums in which the Contractor is to be entitled to Payment, in pursuance of and in accordance with the Presentment; and whenever such Contractor shall become entitled to any Payment under such Presentment and Contract he shall give Notice thereof to the Committee, who shall thereupon refer the same to the County Surveyor; and if the said Contractor shall appear on the Surveyor's Report to have properly performed his Contract, or any Portion thereof, so as to become entitled to any Payment, he shall receive a Certificate in Writing to that Effect, signed by Three or more Members of the Committee.

CLAUSE G. Mode of Payment.

21. When the Commissioners of Public Works shall have agreed to advance the whole or any Part of the Money presented by the said Grand Juries as aforesaid, they shall pay to the said Contractor the Sum mentioned in the said Certificate, or so much thereof as the Funds in their Hands available for such Payment will permit; and in every other Case the Treasurers of the Counties liable to contribute towards defraying the Expenses of the said Work shall pay the Sum mentioned in the said Certificate to the said Contractor in the Proportion of the respective Liabilities of such Counties.

Payment to Persons whose Property is required for the Purposes of this Act.

22. The Commissioners of Public Works in Ireland shall, out of the Monies available for the Purpose of such Work, pay to the said Valuator and the said several other Persons respectively the Remuneration, Costs, and Expenses to which they shall be respectively entitled as aforesaid; and also, when it appears to them that any Person claiming any Right or Interest in the Property to be purchased or taken as aforesaid is absolutely entitled to the Estate or Interest claimed by him, they shall out of the said Monies pay to such Person the Sum to which he is entitled under the said Award, upon his giving a Receipt to them for the same, and such Receipt shall have the Effect of transferring all the Estate, Right, and Interest of such Party and of all Parties claiming under or through him in the Property in respect of which such Monies are paid to the said Commissioners, and vesting the same in them, so as such Receipt shall have an ad valorem

Receipt for Purchase Money to transfer Property to Commissioners.

valorem Stamp of the same Amount impressed thereon in respect of the Purchase Monies mentioned therein as would have been necessary if such Receipt had been an actual Conveyance of such Estate, Right, or Interest, and the Costs of every such Receipt shall be deemed Part of the Expenses of the said Work, and shall be paid in manner herein-before provided.

Where Parties making claim are unwilling to accept Payment, deemed not entitled, or are under Disability, or Title not satisfactorily deduced, Mode of Payment to be according to "Lands Clauses Consolidation Act, 1845."

23. In case any such Person shall refuse to accept such Payment or give such Receipt as aforesaid, or if it appear to the said Commissioners, from any such Statement of Claim and Abstract as aforesaid or otherwise, that the Party making any such Claim as aforesaid is not absolutely entitled to the Estate or Interest in respect of which his Claim is made, or is under any Disability, or if the Title to such Estate or Interest be not satisfactorily deduced to the said Commissioners free from Incumbrance, then and in every such Case the Amount to be paid by the said Commissioners in respect of such Estate or Interest as aforesaid shall be paid and applied as provided by the Clauses of "The Lands Clauses Consolidation Act, 1845," with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making Title; provided that the Expression "the Promoters of the Undertaking" used in the said Clauses of the said Act shall in the Cases contemplated by this Section be construed to mean "the Commissioners of Public Works in Ireland."

Taking possession of Property.

24. It shall be lawful for the said Commissioners to take possession of the said Property and commence the said Work when they shall have made Payment of the Monies to which the Persons who have any Estate or Interest in the said Property are by the said Award declared to be entitled, in the Manner provided by the Fifteenth or Sixteenth Sections of this Act respectively, or, if the said Award is appealed against as is by this Act provided, when they shall have paid the whole Amount of the Monies awarded to all the said Persons into the Bank of Ireland, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account there to the Credit of the said Persons and of this Act, and of the Work in respect of which the same is paid, subject to the Control and Disposition of the said Court; and the said Accountant General shall invest all Monies which shall be so paid in the Purchase of Bank Annuities or Government Securities, and allow the same to accumulate until the said Appeal shall have been heard and disposed of, and thereupon it shall be lawful for the Court of Chancery, upon Application by the said Commissioners, and upon Proof that Payment of the Sums

to which the said Persons shall have been declared entitled has been duly made in manner herein-before provided, to order the Funds in which the said Money shall have been invested, together with the Accumulation thereof, to be transferred to the said Commissioners; or, in default of such Payment as aforesaid by the said Commissioners, it shall be lawful for the said Court, upon Application of any of the said Persons, to order the same to be applied, in such Manner as it shall think fit, for the Benefit of the Parties for whose Security the same shall have been so paid: Provided always, that in the event of any Sum being required for the Purposes of this Section in addition to the Sum which shall have been paid into the Bank of Ireland in manner aforesaid, such Sum shall, when certified as necessary by the said Commissioners of Public Works to the Grand Juries liable to contribute towards defraying the Expenses of the said Work, be presented by the said Grand Juries in the like Proportion as the Sums presented by them respectively for the said Expenses of the said Work.

Power to Grand Juries to present Monies off Baronies, Townlands, &c.

25. It shall be lawful for the Grand Juries of the respective Counties, in presenting the Amount to be levied off and from their Counties respectively for the Expenses of any Work under the recited Acts, or the same and this Act, to present the same, and the several Instalments, if any, in which the same shall be made payable, to be levied and raised upon and from the Occupiers of Lands, Tenements, and Hereditaments chargeable with the Payment of County Cess or Grand Jury Rates within all or any of the Baronies in such County, or all or any of the Townlands of any such Barony, exclusive of any others of such Baronies or Townlands, and either equably or in such rateable Proportions as, having regard to the Benefits probably to be derived from the Execution of any such Work, such Grand Jury shall consider just: Provided always, that the Owners or Occupiers of Lands, Tenements, and Hereditaments chargeable with the Payment of County Cess or Grand Jury Rates within any Barony or Townland who shall consider themselves aggrieved by any such Presentment may, within One Month after such Presentment shall have been made, but not after, make an Appeal to the Lord Lieutenant in such Manner as is herein-before provided in case of Appeals against the said Valuations, and it shall be lawful for the Lord Lieutenant, with the like Consent as aforesaid, to hear and determine such Appeal, and to make such Order varying, altering, or modifying the said Presentment, and as to the Costs of such Appeal, as shall seem meet.

Clause H. Co-operation of Grand Juries for

26. And whereas in Cases where a Bridge or Ferry is situate wholly within the Limits of a County or County of a City it is expedient

expedient to enable the Grand Jury of any neighbouring County or County of a City to co-operate with the Grand Jury of any such first-mentioned County or County of a City for any of the Purposes of the recited Acts and of this Act: Be it therefore enacted, That it shall be lawful for the Grand Jury of such neighbouring County or County of a City, upon and after Application made and approved at Presentment Sessions, to consent to co-operate with the Grand Jury of any such first-named County or County of a City for the Purposes aforesaid, and to signify such Consent by a Resolution entered on the Record of its Proceedings, and thereupon all the Provisions of the recited Acts and of this Act shall extend and be applicable in like Manner as if the said Bridge or Ferry were situate between the said Counties, and all Acts and Proceedings by the said Acts and this Act provided shall and may be done, had, and taken accordingly. purchasing Bridges, &c.

27. When any such Work shall be completed, the Passage of the said Bridge shall be open to all Persons, Carriages, Horses, Cattle, and other Animals whatsoever, free from all Tolls and Charges whatsoever. Bridges to be Toll-free.

28. And whereas a Bridge at New Ross, over the River Barrow (which River is the Boundary between the Counties of Wexford and Kilkenny), the Property of the Commissioners for building a Bridge over the River of Ross, was partly carried away in the Month of January last, and great public Inconvenience and Loss has resulted therefrom: And whereas the Tolls of said Bridge are the Property of the said Commissioners, and the Right of Ferry over the said River is the Property of the said Commissioners, and it is desirable that a free Bridge shall be erected in place thereof, and for such Purposes it is necessary to purchase the Property of the said Bridge Commissioners: And whereas the Grand Juries of the Counties of Wexford and Kilkenny assembled at the last Spring Assizes, by Resolutions entered on the Record of their respective Proceedings, have signified their Consent to such Purchase, and to the building of a Bridge under the Provisions of the recited Act, in place of that which was destroyed as aforesaid, and have respectively presented Memorials to His Excellency the Lord Lieutenant of Ireland under the Provisions of the recited Act, and have stated therein, in addition to the several Matters by the recited Act required, the Nature and Particulars of the Property necessary to be purchased, and the Necessity of such Purchase: Be it therefore enacted, That the said Resolutions shall be as valid and effectual to signify the Consent herein-before required as if such Consent had been given and Provisions as to Bridge at New Ross.

signified, and such Resolutions had been passed and entered, after the passing of and under the Provisions of this Act, and that the said Memorials shall also be as valid and effectual as if the same had been presented under the Provisions of the recited Act and this Act, and all the Acts and Proceedings herein-before provided shall and may be done, had, and taken thereupon accordingly; and for the Purposes of this Act the Grand Jury of the County of Wexford shall be deemed to be the Grand Jury which shall have presented the Memorial, and the Secretary of such Grand Jury shall be the Officer to do all Acts herein-before provided to be done by the Secretary of the Grand Jury presenting a Memorial under this Act; and that in ascertaining the Purchase Money to be paid to the said Commissioners the Value of all the Property to be taken from them shall be included, and no further Obligation shall rest on the said Commissioners to restore the said Bridge.

CLAUSE I. Persons liable to pay Cess for Purchase of the Bridge at New Ross may deduct same from Rent.

29. Every Person occupying any Lands, Tenements, or Hereditaments within either of the said Counties of Wexford and Kilkenny who shall be liable to pay a Rent in respect of the same, and all Sub-lessors and others paying Rent for such Lands, Tenements, and Hereditaments, may deduct from such Rent the same rateable Proportion of the Cess or Rate payable under this Act in respect to and for the Purchase of the said Property in the preceding Section mentioned, and the building of the said Bridge at New Ross, as such Occupier or Sub-lessor is now by Law entitled to deduct for a Rate made for the Relief of the Poor in Ireland; and the Receipts to be given for such Cess or Rate under this Act, and the Payment thereof, shall have the same Effect to all Intents and Purposes as is provided in respect to Rates made for the Relief of the Poor in Ireland: Provided always, that if any such Consent as is prescribed by the Twenty-eighth Section of this Act shall ever be entered into between the Counties of Kilkenny and Waterford, or either of them, and the County of the City of Waterford, for the Purchase of the Bridge and Ferry at Waterford, no Memorial for the effecting such Purchase shall be adopted by any Grand Jury, or forwarded by them to the Lord Lieutenant, until the same shall have been assented to by a Majority in Number and Value of the Ratepayers of the Borough of Waterford, in manner provided by the Act of the Seventeenth and Eighteenth Victoria, Chapter One hundred and three, for the Purpose of adopting the "Towns Improvement (Ireland) Act."

Assent of Ratepayers in Case of Waterford Bridge.

Bridges (Ireland)

A

BILL

[AS AMENDED IN COMMITTEE ON RE-COMMITMENT]

To afford further Facilities for the Erection of certain Bridges in Ireland.

(Prepared and brought in by Mr. Solicitor General for Ireland and Lord Naas.)

Ordered, by The House of Commons, *to be Printed,* 7 *June* 1867.

[Bill 195.]

Under 2 *oz.*

British North America Bill.

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VII.—Judicature.

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A

B I L L

INTITULED

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

[Note.—*The Words and Clauses printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom: Preamble.

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I.—Preliminary.

Short Title.

1. This Act may be cited as The British North America Act, 1867.

Application of Provisions referring to the Queen.

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

II.—Union.

Declaration of Union.

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

Construction of subsequent Provisions of Act.

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

Four Provinces.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Provinces of Ontario and Quebec.

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

Decennial Census.

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One thousand eight hundred and

and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III.—Executive Power.

Declaration of Executive Power in the Queen.

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of Provisions referring to Governor General.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

Constitution of Privy Council.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

Powers to be exercised by Governor General with Advice or alone.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

Application of Provisions referring to

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting

Governor General in Council.

acting by and with the Advice of the Queen's Privy Council for Canada.

Appointment of Deputies by Governor General.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

Command of Armed Forces.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of Government of Canada.

16. Until the Queen otherwise directs the Seat of Government of Canada shall be Ottawa.

IV.—Legislative Power.

Constitution of Parliament of Canada.

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Privileges, &c. of Houses.

18. The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

First Session of the Parliament.

19. The Parliament of Canada shall be called together not later than Six Months after the Union.

Yearly Session of the Parliament.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.

The

The Senate.

Number of Senators.

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

Representation of Provinces in Senate.

22. In relation to the Constitution of the Senate Canada shall be deemed to consist of Three Divisions—

1. Ontario;
2. Quebec;
3. The Maritime Provinces, Nova Scotia and New Brunswick;

which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the Case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.

Qualifications of Senator.

23. The Qualifications of a Senator shall be as follows:—

(1.) He shall be of the full Age of Thirty Years:

(2.) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:

(3.) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in free and common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Francalleu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:

(4.) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:

(5.) He shall be resident in the Province for which he is appointed:

(6.) In the Case of Quebec he shall have his Real Property

Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

Summons of Senator.

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

Summons of First Body of Senators.

25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.

Addition of Senators in certain Cases.

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by Summons to Three or Six qualified Persons (as the Case may be), representing equally the Three Divisions of Canada, add to the Senate accordingly.

Reduction of Senate to normal Number.

27. In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of Canada is represented by Twenty-four Senators and no more.

Maximum Number of Senators.

28. The Number of Senators shall not at any Time exceed Seventy-eight.

Tenure of Place in Senate.

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Resignation of Place.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senators.

31. The Place of a Senator shall become vacant in any of the following Cases:—

(1.) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:

(2.) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen,

Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power :

(3.) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter :

(4.) If he is attainted of Treason or convicted of Felony or of any infamous Crime :

(5.) If he ceases to be qualified in respect of Property or of Residence ; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

Summons on Vacancy.

32. When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

Questions as to Vacancies, &c.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

Speaker of Senate.

34. The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

Quorum of Senate.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers.

Voting in Senate.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

The House of Commons.

Constitution of House of Commons.

37. The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.

Summoning of House of Commons.

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Exclusion of Senators.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

Electoral Districts of the Four Provinces.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:—

1.—*Ontario.*

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2.—*Quebec.*

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3.—*Nova Scotia.*

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4.—*New Brunswick.*

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

41. Until

Continuance of existing Election Laws.

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Writs for First Election.

42. For the First Election of Members to serve in the House of Commons the Governor General shall cause Writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

Casual Vacancies.

43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such vacant District.

Speaker of House of Commons.

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

Vacancy in Office of Speaker.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

Speaker to preside.

46. The Speaker shall preside at all Meetings of the House of Commons.

Provision for Absence of Speaker.

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a Period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker.

Quorum of House of Commons.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member.

Voting in House of Commons.

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

Duration of House of Commons.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

Decennial Re-adjustment of Representation.

51. On the Completion of the Census in the Year One thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be re-adjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:—

(1.) Quebec shall have the fixed Number of Sixty-five Members:

(2.) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):

(3.) In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half of the whole

whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:

(4.) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:

(5.) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

Increase of Number of House of Commons.

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes; Royal Assent.

Appropriation and Tax Bills.

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Recommendation of Money Votes.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Royal Assent to Bills, &c.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

Disallowance by Order in Council of Act assented to by Governor General.

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to One of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow

disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

Signification of Pleasure on Bill reserved.

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.

V.—Provincial Constitutions.

Executive Power.

Lieutenant Governors of Provinces.

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

Tenure of Office of Lieutenant Governor.

59. A Lieutenant Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removeable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

Clause A. Salaries of Lieutenant Governors.

The Salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada.

Oaths, &c. of Lieutenant Governor.

60. Every Lieutenant Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him Oaths of Allegiance and Office similar to those taken by the Governor General.

Application of Provisions referring to

61. The Provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the Time being

being of each Province or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated. Lieutenant Governor.

62. The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec, the Speaker of the Legislative Council and the Solicitor General. Appointment of Executive Officers for Ontario and Quebec.

63. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act. Executive Government of Nova Scotia and New Brunswick.

64. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec. Powers to be exercised by Lieutenant Governor of Ontario or Quebec with Advice or alone.

65. The Provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the Advice of the Executive Council thereof. Application of Provisions referring to Lieutenant Governor in Council.

 66. The

Administration in Absence, &c. of Lieutenant Governor.

66. The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability.

Seats of Provincial Governments.

67. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Legislative Power.

1.—*Ontario.*

Legislature for Ontario.

68. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

Electoral Districts.

69. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.

2.—*Quebec.*

Legislature for Quebec.

70. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Constitution of Legislative Council.

71. The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant Governor in the Queen's Name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.

Qualification of Legislative Councillors.

72. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

Resignation, Disqualification, &c.

73. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, mutatis mutandis, in which the Place of Senator becomes vacant.

Vacancies.

74. When a Vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

75. If

75. If any Question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council. Questions as to Vacancies, &c.

76. The Lieutenant Governor may from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his Stead. Speaker of Legislative Council.

77. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers. Quorum of Legislative Council.

78. Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the negative. Voting in Legislative Council.

79. The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed. Constitution of Legislative Assembly of Quebec.

3.—*Ontario and Quebec.*

80. The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union. First Session of Legislatures.

81. The Lieutenant Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under Summoning of Legisla-

tive Assemblies.

the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

Restriction on Election of Holders of Offices.

82. Until the Legislature of Ontario or of Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or Profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office.

Continuance of existing Election Laws.

83. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and Execution of new Writs in case of Seats vacated otherwise than by Dissolution, shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Duration of Legislative Assemblies.

84. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly

Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

Yearly Session of Legislature.

85. There shall be a Session of the Legislature of Ontario and of that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

Speaker, Quorum, &c.

86. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the Absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

4.—*Nova Scotia and New Brunswick.*

Constitutions of Legislatures of Nova Scotia and New Brunswick.

87. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the Period for which it was elected.

5.—*Ontario, Quebec, and Nova Scotia.*

First Elections.

88. Each of the Lieutenant Governors of Ontario, Quebec, and Nova Scotia shall cause Writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor General directs, and so that the First Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.

6.—*The Four Provinces.*

Application to Legislatures of Provisions respecting Money Votes, &c.

89. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the

several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

VI.—Distribution of Legislative Powers.

Powers of the Parliament.

Legislative Authority of Parliament of Canada.

90. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next herein-after enumerated; that is to say,—

The Public Debt and Property.

1. The Regulation of Trade and Commerce.

The raising of Money by any Mode or System of Taxation.

The borrowing of Money on the Public Credit.

Postal Service.

2. The Census and Statistics.
3. Militia, Military and Naval Service, and Defence.

The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.

4. Beacons, Buoys, Lighthouses, and Sable Island.
5. Navigation and Shipping.
6. Quarantine and the Establishment and Maintenance of Marine Hospitals.
7. Sea Coast and Inland Fisheries.
8. Ferries between a Province and any British or Foreign Country or between Two Provinces.

Currency and Coinage.

9. Banking, Incorporation of Banks, and the Issue of Paper Money.
10. Savings Banks.
11. Weights and Measures.
12. Bills of Exchange and Promissory Notes.
13. Interest.

13. Interest.
14. Legal Tender.
15. Bankruptcy and Insolvency.
16. Patents of Invention and Discovery.
17. Copyrights.
18. Indians, and Lands reserved for the Indians.
19. Naturalization and Aliens.
20. Marriage and Divorce.
21. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
22. The Establishment, Maintenance, and Management of Penitentiaries.
23. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

Subjects of exclusive Provincial Legislation.

91. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next herein-after enumerated; that is to say,—

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.

The borrowing of Money on the sole Credit of the Province.

2. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
3. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
4. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
5. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
6. Municipal Institutions in the Province.

Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.

7. Local Works and Undertakings other than such as are of the following Classes,—

a. Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:

b. Lines of Steam Ships between the Province and any British or Foreign Country:

c. Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

8. The Incorporation of Companies with Provincial Objects.

9. The Solemnization of Marriage in the Province.

10. Property and Civil Rights in the Province.

11. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

12. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

13. Generally all Matters of a merely local or private Nature in the Province.

Education.

Legislation respecting Education.

92. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

(1.) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2.) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

(3.) Where

(3.) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

(4.) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

Legislation for Uniformity of Laws in Three Provinces.

93. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

Agriculture and Immigration.

Concurrent Powers of Legislation respecting Agriculture &c.

94. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—Judicature.

Appointment of Judges.

95. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of Judges in Ontario, &c.

96. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Quebec.

97. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Tenure of Office of Judges of Superior Courts.

98. The Judges of the Superior Courts shall hold Office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

Clause B. Salaries, &c. of Judges.

The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada.

General Court of Appeal, &c.

99. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

VIII.—Revenues; Debts; Assets; Taxation.

Clause C. Creation of Consolidated Revenue Fund.

All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such Portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

Clause D. Expenses of Collection, &c.

The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall

shall form the First Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

CLAUSE E. Interest of Provincial Public Debts.

The annual Interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

CLAUSE F. Salary of Governor General.

Unless altered by the Parliament of Canada, the Salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.

CLAUSE G. Appropriation from Time to Time.

Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service.

CLAUSE H. Transfer of Stocks, &c.

All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the Time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the Amount of the respective Debts of the Provinces at the Union.

CLAUSE I. Transfer of Property in Schedule.

The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

CLAUSE J. Property in Lands, Mines, &c.

All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

CLAUSE K. Assets connected with Provincial Debts.

All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

CLAUSE L. Assumption of Provincial Debts.

Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

CLAUSE M. Debts of Ontario and Quebec.

Ontario and Quebec conjointly shall be liable to Canada for the Amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

CLAUSE N. Assets of Ontario and Quebec.

The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the Property of Ontario and Quebec conjointly.

CLAUSE O. Debt of Nova Scotia.

Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

CLAUSE P. Debt of New Brunswick.

New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

CLAUSE Q. Payment of Interest to Nova Scotia and New Brunswick.

In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively, they shall respectively receive by half-yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

CLAUSE R. Provincial Public Property.

The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

CLAUSE S. Grants to Provinces.

The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:

	Dollars.
Ontario	Eighty thousand.
Quebec	Seventy thousand.
Nova Scotia	Sixty thousand.
New Brunswick	Fifty thousand.
	Two hundred and sixty thousand;

and an annual Grant in aid of each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census

Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.

CLAUSE T. Further Grant to New Brunswick.

New Brunswick shall receive by half-yearly Payments in advance from Canada for the Period of Ten Years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the Interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.

CLAUSE U. Form of Payments.

All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council.

CLAUSE V. Canadian Manufactures, &c.

All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

CLAUSE W. Continuance of Customs and Excise Laws.

The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.

CLAUSE X. Exportation and Importation as between Two Provinces.

Where Customs Duties are, at the Union, leviable on any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.

CLAUSE Y. Lumber Dues in New Brunswick.

Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title

Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.

CLAUSE Z. Exemption of Public Lands, &c.

No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

CLAUSE AA. Provincial Consolidated Revenue Fund.

Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX.—MISCELLANEOUS PROVISIONS.

General.

Legislative Councillors of Provinces becoming Senators.

100. If any Person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate shall thereby vacate his Seat in such Legislative Council.

Oath of Allegiance, &c.

101. Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor-General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

102. Except

Continuance of existing Laws, Courts, Officers, &c.

102. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

Transfer of Officers to Canada.

103. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made.

Appointment of new Officers.

104. Until the Parliament of Canada otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

Treaty Obligations.

105. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

Use of English and French Languages.

106. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Ontario and Quebec.

Appointment of Executive Officers for Ontario and Quebec.

107. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General; and may, by Order of the Lieutenant Governor in Council, from Time to Time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof; and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.

Powers, Duties, &c. of Executive Officers.

108. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute, or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works.

Great Seals.

109. Until altered by the Lieutenant Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

Construction of temporary Acts.

110. The Words "and from thence to the End of the then "next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada, if the subject Matter of

of the Act is within the Powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively, if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

Errors in Names.

111. From and after the Union the Use of the Words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

Proclamations commencing after Union.

112. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several Matters and Things therein proclaimed shall be and continue of like Force and Effect as if the Union had not been made.

Issue of Proclamations after Union.

113. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

114. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.

Arbitration respecting Debts, &c.

115. The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec.

Division of Records.

116. The Governor-General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of Canada as he thinks fit shall be appropriated

and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

Constitution of Townships in Quebec.

117. The Lieutenant Governor of Quebec may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a Day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

X.—Intercolonial Railway.

Duty of Government of Canada to make Railway.

118. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement, within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

XI.—Admission of other Colonies.

Power to admit Newfoundland, &c.

119. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Representation of Newfoundland

120. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation

Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.

and Prince Edward Island in Senate.

SCHEDULES.

The FIRST SCHEDULE.

Electoral Districts of Ontario.

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES.

1. Prescott.
2. Glengarry.
3. Stormont.
4. Dundas.
5. Russell.
6. Carleton.
7. Prince Edward.
8. Halton.
9. Essex.

RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan.)
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES,

CITIES, PARTS OF CITIES, AND TOWNS.

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

B.

NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of ALGOMA.

The County of BRUCE, divided into Two Ridings, to be called respectively the North and South Ridings: —

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amabel, Arran, Bruce, Elderslie, and Langeen, and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinross, Culross, and Carrick.

The County of HURON, divided into Two Ridings, to be called respectively the North and South Ridings: —

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into Ridings, to be called respectively the North, West, and East Ridings :—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.
50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa, and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.
52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.

53. The County of Bothwell to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of Grey, divided into Two Ridings, to be called respectively the South and North Ridings :—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.

55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of Perth, divided into Two Ridings, to be called respectively the South and North Ridings :—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.

57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of Wellington, divided into Three Ridings, to be called respectively North, South, and Centre Ridings :—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.

59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.

60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of Norfolk, divided into Two Ridings, to be called respectively the South and North Ridings :—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.

62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.

63. The County of Haldimand to consist of the Townships of Oneida, Seneca, Caguya North, Caguya South, Raynham, Walpole, and Dunn.

64. The County of Monck to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunville (taken from the County of Haldimand), the Townships of Caistor and Gainsborough, taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).

65. The County of Lincoln to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.

66. The

66. The County of WELLAND to consist of the Townships of Bertie Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.

67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.

68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and the North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tosorontio, Mulmur, and the Village of Bradford.

70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings:—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.

72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings:—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.

74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into three Ridings, to be called respectively the West, East, and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.

76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.

77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.

78. The County of LENNOX to consist of the Townships of Richmond, Adolphustown, North Fredericksburg, South Fredericksburg, Ernest Town, and Amherst Island, and the Village of Napanee.

79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbroke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.

80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburg and Howe Island, and Storrington.

The County of RENFREW, divided into Two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every Town and incorporated Village existing at the Union, not specially mentioned in this Schedule, is to be taken as Part of the County or Riding within which it is locally situate.

The SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond.
Argenteuil.	Shefford.	Megantic.
Huntingdon.	Stanstead.	

TOWN of Sherbrooke.

The

The THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

The FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.
Lunatic Asylums.
Normal School.
Court Houses in Aylmer, Montreal, Kamouraska, } Lower Canada.
Law Society, Upper Canada.
Montreal Turnpike Trust.
University Permanent Fund.
Royal Institution.
Consolidated Municipal Loan Fund, Upper Canada.
Consolidated Municipal Loan Fund, Lower Canada.
Agricultural Society, Upper Canada.
Lower Canada Legislative Grant.
Quebec Fire Loan.
Tamisconata Advance Account.
Quebec Turnpike Trust.
Education—East.
Building and Jury Fund, Lower Canada.
Municipalities Fund.
Lower Canada Superior Education Income Fund.

The

The FIFTH SCHEDULE.

Oath of Allegiance.

I *A. B.* do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

Note.—The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with proper Terms of Reference thereto.

Declaration of Qualification.

I *A.B.* do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or* seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture (*as the Case may be*),] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

British North America.

A

B I L L

INTITULED

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

(*Brought from the Lords* 26 *February* 1867.)

Ordered, by The House of Commons, *to be Printed*, 26 *February* 1867.

[Bill 52.]

Under 6 *oz.*

A

BILL

TO

Allow Warehoused British Spirits to be bottled for Home Consumption.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

British Spirits in Customs or Excise Warehouse may be bottled for Home Consumption.

1. Any plain British Spirits or compounded British Spirits deposited in an Excise Warehouse may be bottled and packed for Home Consumption under and subject to the same Provisions and Regulations as are contained in or authorized by the Act of the Twenty-seventh Year of Her Majesty's Reign, Chapter Twelve, in relation to bottling and packing plain British Spirits for Exportation or for Use as Ships Stores; and any plain British Spirits or compounded British Spirits deposited in a Customs Warehouse may be bottled and packed for Home Consumption under the Provisions of the Act or Acts relating to the bottling of Spirits for Exportation, and subject to such Regulations as the Commissioners of Customs shall from Time to Time prescribe; and all Spirits bottled and packed as aforesaid may, under such Regulations as the Commissioners of Customs and Inland Revenue respectively shall appoint, be delivered for Home Consumption upon Payment of the proper Duty of Excise thereon.

Duty to be paid upon Deficiency found on bottling Spirits.

2. Duty shall be paid upon any Deficiency which shall be found in the Quantity of any plain or compounded British Spirits bottled in any Customs Warehouse over and above the Rate of *Two per Cent.* specified in the Second Section of the Act of the Twenty-seventh Victoria, Chapter Twelve.

Duties on British Spirits delivered from Customs Warehouse to be collected by Officers of Customs.

3. In all Cases where British Spirits bottled and packed as aforesaid shall be delivered for Home Consumption from a Customs Warehouse, or where Duty shall be payable on any Deficiency as aforesaid, the Excise Duty shall be collected by the Officers of Customs, and shall be accounted for and paid over in the same Manner as is now by Law directed in the Case of Excise Duty payable on any British Spirits delivered out of a Customs Warehouse for Home Consumption.

Quantities in which British Spirits may be delivered for Home Consumption.

4. No Distiller shall sell or remove for Home Consumption any British Spirits in Bottle in a less Quantity than *Five Dozen* Imperial or reputed Quart Bottles, or *Ten Dozen* Imperial or reputed Pint Bottles, properly packed and secured in Cases, each Case to contain any Number of Dozens of such Bottles, but not less than *One Dozen* Quarts or *Two Dozen* Pints, unless he shall have in force a Licence as a Dealer in Spirits under the Laws of Excise, and no British Spirits in Bottle shall be delivered for Home Consumption in a less Quantity than *One Dozen* Imperial or reputed Quart Bottles, or *Two Dozen* Imperial or reputed Pint Bottles, packed and secured as aforesaid.

Spirits sweetened in Customs Warehouse, and Spirits of Wine deposited therein, not to be delivered for Home Consumption.

5. Nothing in this Act contained shall authorize the Delivery for Home Consumption of any British Spirits to which any sweetening or colouring Matter or other Ingredient has been added in a Customs Warehouse, or of any Spirits of Wine upon which a Drawback of the Duty of Excise has been paid upon the Deposit of the same in a Customs Warehouse.

28 & 29 Vict. c. 98. s. 6. to apply to bottled compounded Spirits.

6. The Provisions of Section Sixth of the Act Twenty-eighth and Twenty-ninth Victoria, Chapter Ninety-eight, and the Enactment therein referred to, shall apply to all bottled compounded British Spirits delivered out of a Customs or Excise Warehouse for Home Consumption.

A

BILL

To allow Warehoused British Spirits to be bottled for Home Consumption.

(*Prepared and brought in by Mr. Dodson, Mr. Hunt, and Mr. Chancellor of the Exchequer.*)

Ordered, by The House of Commons, *to be Printed,* 3 *May* 1867.

[Bill 135.]

Under 1 *oz.*

A

B I L L

INTITULED

An Act to alter and amend the Acts relating to the British White Herring Fishery.

[Note.—*The Words printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS the following Acts were passed for the Encouragement and Regulation of the British White Herring Fishery; that is to say, the Acts of Forty-eighth of George the Third, Chapter One hundred and ten; Fifty-first of George the Third, Chapter One hundred and one; Fifty-second of George the Third, Chapter One hundred and fifty-three; Fifty-fourth of George the Third, Chapter One hundred and two; Fifty-fifth of George the Third, Chapter Ninety-four; First of George the Fourth, Chapter One hundred and three; First and Second of George the Fourth, Chapter Seventy-nine; Fifth of George the Fourth, Chapter Sixty-four; Seventh of George the Fourth, Chapter Thirty-four; First of William the Fourth, Chapter Fifty-four; Fourteen and Fifteenth of Victoria, Chapter Twenty-six; Twenty-third and Twenty-fourth of Victoria, Chapter Ninety-two; Twenty-fourth and Twenty-fifth of Victoria, Chapter Seventy-two; Twenty-eighth and Twenty-ninth Victoria, Chapter Twenty-two: Preamble.

And whereas it is expedient that certain of the Restrictions imposed by the recited Acts as to the Description of Net, or Mode of fishing for and taking Herrings and Herring Fry on the Coasts of

Scotland should be removed, and that the recited Acts should be amended in certain other respects:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

After 1st July 1867 Restrictions on Mode of fishing for Herrings removed.

1. From and after the First Day of July One thousand eight hundred and sixty-seven, notwithstanding anything in the recited Acts or any of them to the contrary, it shall be lawful to fish for and take Herrings and Herring Fry at all Places on the Coasts of Scotland, in any Manner of Way, and by means of any Kind of Net having Meshes of a Size not less than that now permitted or required by Law, and to sell, buy, or have in possession Herrings or Herring Fry so fished for and taken.

Section 5 of 23 & 24 Vict. c. 92. repealed.

2. The Fifth Section of the Act passed in the Twenty-third and Twenty-fourth Years of Her present Majesty, Chapter Ninety-two, is hereby repealed, and in lieu thereof it is enacted as follows:

Commissioners may make Regulations for Preservation of Order.

It shall be lawful for the Commissioners of the British White Herring Fishery from Time to Time to make such Regulations as they shall think fit for the Preservation of Order among the Persons engaged in the Herring Fisheries on the Coasts of Scotland, and for preventing such Persons from destroying, injuring, or carrying off each other's Nets, or the Fish therein, or Floats, Buoys, or other Fishing Implements or Apparatus; and every Person who commits any Breach or Contravention of any such Regulations shall be liable to a Penalty of not less than Five and not exceeding Twenty Pounds for every such Offence; and the Boat in or from which such Person shall commit such Breach or Contravention, and all sailing, rowing, or steering Gear connected therewith, may be seized and detained by any Superintendent appointed under the Authority of the recited Acts or any of them, or by any Person acting under his Orders, or by any Officer of the Fishery or by any Person acting under his Orders, or by Order of any Sheriff, Justice of the Peace, or Magistrate having Jurisdiction under the recited Acts or any of them, or under this Act, for such Period, not exceeding Thirty Days, as the Commissioners shall determine. And the Herrings or Herring Fry in the Possession of the Person committing such Breach or Contravention, and the Nets, Floats, Buoys, and other Fishing Implements or Apparatus used by him, may be seized by any Superintendent appointed under the Authority of the recited Acts or any of them, or by any Person acting under his Orders, or by any Officer of the Fishery or by any Person acting under his Orders, or by Order of any Sheriff, Justice of the Peace,

Penalties for Contravention of Regulations.

or

or Magistrate having Jurisdiction under the recited Acts or any of them, or under this Act, and may be forfeited.

Regulations may be rescinded or altered.

3. The Commissioners may from Time to Time rescind, alter, or amend any Regulation or Regulations made by them under the Authority of this Act.

Regulations to be submitted to and approved by Treasury, and published.

4. All Regulations made by the Commissioners under the Authority of this Act, or Amendments or Alterations thereof, shall, before taking effect, be submitted to and approved by the Commissioners of Her Majesty's Treasury, and shall thereafter be published by printed Copies thereof being posted up in conspicuous Positions, near the Harbours or other Places frequented by Fishermen, in the Districts or Places to which the Regulations shall apply, and by printed Copies thereof being deposited with every Officer of the Fishery in such Districts or Places, and in the Office of the Sheriff Clerk or Sheriff Clerks of the County or Counties within which such Districts or Places are situated, and also by Advertisement inserted once in each of Two Newspapers published or circulated in such Districts or Places, either setting forth such Regulations in full, or intimating that such Regulations have been made, and that Copies thereof have been deposited with the Officers of the Fishery as aforesaid, all in such Manner as the Commissioners shall direct; and after such Regulations shall have been so published, it shall not be any Defence against Proceedings for the Enforcement of any Penalty or Forfeiture incurred by any Breach or Contravention thereof, that the Person charged with such Breach or Contravention was, or alleged himself to be, ignorant of such Regulations: Provided always, that such Regulations shall have been so published at least One Week before the same can be enforced; and a printed Copy of any Regulation, signed by the Secretary of the Commissioners for the Time being, shall be Evidence of the Terms of such Regulation, and that the same has been duly published, reserving to any Person having Interest the Right to prove that the same was not so published.

Penalty for resisting Persons acting under Orders of Naval Superintendent.

5. Every Person who shall resist or obstruct any Person acting under the Orders of the Naval Superintendent appointed under the Authority of the recited Acts, or any of them, in the Execution of the Powers or Duties conferred on or intrusted to him by or under any of the recited Acts or by or under this Act, shall be liable to a Penalty not exceeding Fifty Pounds, or, failing Payment thereof, to Imprisonment for any Period not exceeding Sixty Days.

 6. Every

Penalty for resisting Superintendents, Fishery Officers, &c.

6. Every Person who resists or obstructs any Superintendent appointed under the Authority of the recited Act of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Ninety-two, or any Person acting under his Orders, or any Officer of the Fishery or any Person acting under his Orders, in the Exercise of any of the Powers conferred on, or in the Execution of any of the Duties entrusted to, such Superintendent or Officer or the Persons acting under their Orders respectively, by or under any of the recited Acts, or by or under this Act, shall be liable to a Penalty not exceeding Fifty Pounds, and, failing Payment thereof, to Imprisonment for any Period not exceeding Sixty Days.

Powers, &c. of recited Acts extended to this Act.

7. All the Powers, Jurisdictions, and Authorities given, created, or conferred by the recited Acts of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Ninety-two, and the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, Chapter Seventy-two, or either of them, for carrying into effect the Purposes of those Acts respectively, shall, in so far as consistent with the Provisions hereof, be held to extend to and be incorporated with this Act; and all Forfeitures and Penalties imposed by or incurred under the Provisions of this Act may be prosecuted, declared, and enforced after the Forms and according to the Rules and Procedure prescribed by the said recited Act of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Ninety-two: Provided always, that where any Herrings or Herring Fry shall have been seized as being liable to Forfeiture under the Provisions of the recited Acts, or any of them, or of this Act, or of any Regulations made or to be made by the Commissioners as therein or herein provided, it shall be lawful for any Officer of the Fishery to destroy such Herrings or Herring Fry, or to sell them as soon as may be by open Sale, as he shall think fit; and, if sold, the Proceeds, after deducting Expenses, shall in the event of a Forfeiture being obtained, be accounted for to the Commissioners of Her Majesty's Treasury, or, if the Sheriff, Justice, or Magistrate declaring the Forfeiture shall so direct, One Half thereof shall be paid to the Informer; or, in the event of no Forfeiture being obtained, the Proceeds, after deducting as aforesaid, shall be paid over on Demand to the Person in whose Possession the said Herrings or Herring Fry were when seized, unless such Person shall have absconded from Justice during the whole or any Part of the Period of Six Months from the Date of such Seizure.

Saving Provisions of 6 & 7 Vict.

8. Nothing contained in this Act shall affect the Provisions of an Act passed in the Sixth and Seventh Years of the Reign of Her present

present Majesty, intituled "An Act to carry into effect a Convention "between Her Majesty and the King of the French concerning "the Fisheries in the Seas between the British Islands and France," or the Provisions of the Convention therein referred to. c. 79. and of French Convention.

9. The recited Acts, and all other Laws, Statutes, and Usages, shall be and the same are hereby repealed, in so far as necessary to give Effect to the Provisions of this Act, but in all other respects they shall remain in full Force and Effect. Partial Repeal of recited Acts.

10. The Sixth Section of the "Herring Fisheries (Scotland) Act, 1860," shall be and the same is hereby repealed. Repeal of 23 & 24 Vict. c. 92. s. 6.

11. Unless there is anything in the Context repugnant to such Construction, the following Words in this Act shall have the Meanings hereby assigned to them :— Interpretation of Terms.

The Words "the Commissioners" shall mean the Commissioners of the British White Herring Fishery:

The Word "Superintendent" shall mean and include the Naval Superintendent or any Superintendent appointed under the Authority of the recited Acts or any of them:

The Words "Officer of the Fishery" shall mean an Officer of the British White Herring Fishery appointed under the Authority of the recited Acts or any of them:

The Words "the Coasts of Scotland" shall mean and include all Bays, Estuaries, Arms of the Sea, and all Tidal Waters within the Distance of Three Miles from the Mainland or adjacent Islands.

12. This Act may be cited for all Purposes as "The Herring Fisheries (Scotland) Act, 1867." Short Title.

13. This Act shall take effect from and after the First Day of July One thousand eight hundred and sixty-seven. Commencement of Act.

14. This Act shall only apply to Scotland and the Coasts thereof. Extent of Act.

Fishery. [H.L.]

A

BILL

INTITULED

An Act to alter and amend the Acts relating to the British White Herring Fishery.

(*Brought from the Lords* 28 *May* 1867.)

Ordered, by The House of Commons, *to be Printed*, 28 *May* 1867.

[Bill 173.]

Under 1 *oz.*

A

BILL

FOR

Confirming a Scheme of the Charity Commissioners for "the Charity founded by Thomas "Brown, Esquire, for promoting the Study and "Cure of the Maladies, Distempers, and "Injuries of Quadrupeds or Birds useful to "Man."

WHEREAS the Charity Commissioners for England and Wales, in their Report to Her Majesty of their Proceedings during the Year One thousand eight hundred and sixty-six, have reported that they have provisionally approved and certified a Scheme for "the Charity founded by Thomas Brown, "Esquire, for promoting the Study and Cure of the Maladies, "Distempers, and Injuries of Quadrupeds or Birds useful to Man," and such Scheme is set out in the Appendix to their said Report: Preamble. 14th Report, dated 27th February 1867.

And whereas it is expedient that the said Scheme, as the same is set out in the Schedule to this Act, should be confirmed:

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. The said Scheme shall be confirmed and take effect. Scheme confirmed.

SCHEDULE.

SCHEME.

1. It shall be lawful for the University of London, for accomplishing the main Design of the Trusts vested in them under the Will of Thomas Brown, Esquire, deceased, namely, the Promotion of the Study and Cure of the Maladies, Distempers, and Injuries of Quadrupeds or Birds useful to Man, more effectually, according to their Judgment, than by the specific Means prescribed by the Testator, to apply the Trust Funds held by them for that Purpose to the following Objects, under the Restrictions herein-after contained.

2. They shall have Power to establish and maintain a Department of or in immediate Connexion with the University, and under their direct Government, for the Promotion and Improvement of Veterinary Science and Practice.

3. They shall cause progressive Examinations to be held in that Department by such duly qualified Persons as shall from Time to Time be appointed by them to discharge this Duty, and under such Regulations as shall be established by them of intending Veterinary Surgeons and Practitioners in the Subjects which they shall consider most effectual for the Advancement and Improvement of Veterinary Science and Practice.

4. They shall have Power to award to the most successful Competitors upon such Examinations any such Exhibitions tenable for prescribed Periods upon any fit Conditions, and such other Prizes, Certificates of Honour or Distinction, and Certificates of Proficiency, as shall in their Judgment be best calculated to encourage and improve the Studies and Qualifications of Veterinary Surgeons and Practitioners.

5. They shall have Power to appropriate any such Building or Apartments, and to provide all such Books, Apparatus, Furniture, and Articles, as shall be required for the effectual Conduct of the above-mentioned Examinations, or for the Execution of the Powers created by this Scheme to the Purposes thereof.

6. They shall have Power to apply all or any Part of the Income of the Trust Funds vested in them under the Will of the Testator to the Payment of the necessary Expenses of executing the Powers of this Scheme, and to the Payment and Provision of the Exhibitions and Prizes to be awarded by them thereunder.

7. If any Surplus of such Income shall remain after answering all the Purposes aforesaid, they shall have Power to apply such Surplus to the general Object of diffusing and advancing Veterinary Science, according to such Ordinances as herein-after mentioned.

8. All the Powers hereby vested in the University shall be exerciseable by the Senate thereof, or by any Committees of Members of the Senate, to whom it shall delegate its Authority for this Purpose.

9. The

9. The Examinations to be held by the University, or under their Direction the Amount and Value of the Exhibitions and Prizes to be awarded by them, and the Terms and Conditions on which such Awards shall be made, and the Purposes for which the Income of the said Trust Funds shall be employed according to this Scheme, shall from Time to Time be regulated by Ordinances of the University, to be submitted by them to, and requiring to their Validity the Approval of, the Board of Charity Commissioners for England and Wales.

10. This Scheme may from Time to Time be amended or altered under any Jurisdiction empowered to establish Schemes for the Administration of endowed Charities in England as effectually as if the Trusts hereby created had been established by the Testator, or under any such ordinary Jurisdiction as aforesaid.

Brown's Charity.

A

BILL

For confirming a Scheme of the Charity Commissioners for "the Charity "founded by Thomas Brown, Esquire, "for promoting the Study and Cure "of the Maladies, Distempers, and "Injuries of Quadrupeds or Birds "useful to Man."

(*Prepared and brought in by Lord Robert Montagu and Mr. Adderley.*)

Ordered, by The House of Commons, *to be Printed*, 9 *May* 1867.

[Bill 142.]

Under 1 *oz.*

A

B I L L

FOR

The Preservation of Bunhill Fields Burial Ground in the County of Middlesex as an open Space; and for other Purposes relating thereto.

WHEREAS the Piece or Parcel of Land or Ground and Hereditaments, commonly called Bunhill Fields Burial Ground, situate in Bunhill Fields in the Parish of Saint Luke's in the County of Middlesex, more particularly described in the Schedule hereto, and herein-after referred to as "the said Burial Ground," is situate within and Parcel of the Manor of Halliwell and Finsbury, with the Rights, Members, and Appurtenances thereof, heretofore belonging to the Prebend of Halliwell and Finsbury within the Cathedral Church of St. Paul, London, or otherwise formed Part of the Lands and Hereditaments of the said Prebend, and the same, together with the other Lands and Hereditaments of the said Prebend, under or by virtue of the Acts of Parliament constituting or relating to the Ecclesiastical Commissioners for England, or some or One of them, and by reason of the Decease in or about the Year One thousand eight hundred and sixty-five of the last Prebendary of the said Prebend of Halliwell and Finsbury, is now absolutely vested in the said Ecclesiastical Commissioners for England for an Estate of Freehold and Inheritance in Fee Simple expectant on the Determi- Preamble.

nation of the Term of Ninety-nine Years granted by the Indenture of Lease of the Thirtieth Day of May One thousand seven hundred and sixty-nine, herein-after more particularly recited or referred to:

And whereas the said Manor of Halliwell and Finsbury, with other Lands and Hereditaments of the said Prebend, including the said Burial Ground, has been for many hundred Years now last past in the actual Possession and Occupation of the Mayor, Commonalty, and Citizens of the City of London or their Under-tenants, under successive Leases thereof from Time to Time granted by the Prebendary for the Time being of the said Prebend of Halliwell and Finsbury, and the same Burial Ground is now in the actual Possession or Occupation of the said Mayor, Commonalty, and Citizens for the unexpired Residue of the Term of Ninety-nine Years computed from the Feast of the Birth of our Lord Christ One thousand seven hundred and sixty-eight, by an Indenture of Lease bearing Date the Thirtieth Day of May One thousand seven hundred and sixty-nine, made between the Reverend Christopher Wilson, Doctor in Divinity, the then Prebendary of the said Prebend of Halliwell and Finsbury of the one Part, and the said Mayor, Commonalty, and Citizens of the said City of London of the other Part, and granted in pursuance of an Act of Parliament passed in the Eighth and Ninth Years of the Reign of His late Majesty King George the Third, intituled "An Act to enable the Reverend Christopher Wilson, "Doctor in Divinity, Prebendary of the Cathedral Church of "St. Paul, London, to make and grant unto the Mayor and Com- "monalty and Citizens of the City of London a Lease of the Pre- "bendal Estate of Halliwell and Finsbury in the Suburbs of the "said City for a Term of Ninety-nine Years:"

And whereas the said Burial Ground has been for the Period of upwards of Two hundred Years now last past, with the Knowledge and express or implied Sanction of the successive Prebendaries of the said Prebend, appropriated by the said Mayor, Commonalty, and Citizens as a Churchyard or Burial Ground or Place of public Interment, and by reason of many Funerals having been publicly performed there since the Year One thousand six hundred and sixty-five by Clerks in Holy Orders, according to the Rites and Usages of the Church of England by Law established, with the Knowledge and Assent of the Prebendaries of the said Prebend and of the Bishops of London for the Time being, the Presumption arises that the said Burial Ground has been duly consecrated and set apart as a Place of public Interment:

And whereas it is expedient that Provision should be made, in manner herein-after appearing, for effectually protecting the said Burial Ground from Desecration, and for the perpetual Preservation thereof from Damage or Injury as an open Space, free to the Public under

under the Care and Regulation herein-after specified, and the said Mayor, Commonalty, and Citizens are willing to continue such Care and Regulation at their own Costs and Charges until the Ecclesiastical Commissioners for England shall take the same upon themselves in manner herein-after mentioned, but the aforesaid Purpose cannot be effectually accomplished without the Aid and Authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; that is to say:

Interpretation of Words: "the Burial Ground:"

1. Unless there be something in the Subject or Context requiring a different Construction the following Words and Expressions shall be interpreted as follows; viz.: "the Burial Ground" shall mean the Piece or Parcel of Land or Ground more particularly described or referred to in the Schedule hereto; the Expression "the Fences, Walks, Graves, Tombstones, and Premises" shall include as well the House of the Keeper of the Ground and the Appurtenances as also all and singular the Walls, Rails, Fences, paved and Gravel Walks, Gardens, Trees, Shrubs, Plants, and all the Graves, Vaults, Tombs, Tombstones, Monuments, Gravestones, Inscriptions, and all other Matters and Things whatsoever for the Time being in, upon, or about, or in anywise belonging or appertaining to the said Burial Ground; the Expression "the Corporation" shall signify the said Mayor, Commonalty, and Citizens of the said City of London, and their Successors for the Time being; and the Expressions "the Ecclesiastical Commissioners" shall signify the Ecclesiastical Commissioners for England and their Successors for the Time being.

"the Fences, Walks, Graves, Tombstones, and Premises:"

"the Corporation:"

"the Ecclesiastical Commissioners."

The Burial Ground to be preserved as an open Space.

2. The Burial Ground shall, from Time to Time and at all Times from and after the Determination of the said recited Lease of the Thirtieth Day of May One thousand seven hundred and sixty-nine, be held, used, and enjoyed as an open Space accessible to the Public at such Times and under such Regulations in all respects, and shall be inclosed with such Wall or Fence, and be laid out with such ornamental and other Walks, and otherwise in such Manner as the Corporation shall from Time to Time think proper and expedient, subject and without Prejudice to the Provisions herein-after contained; and no House or other Building, whether for the Purposes of Residence or of Trade, or for any other Purpose, shall from henceforth and for ever hereafter be built or erected upon the Burial Ground or any Part thereof other than and except such

House (if any) as may from Time to Time be provided by the Corporation for the Residence of a Keeper or Custodian of the Burial Ground and his Family, and such Walks, or Fences, or other Erections as the Corporation shall from Time to Time think proper, with a view to the Protection and Preservation of the Burial Ground under the Provisions of this Act.

Corporation to maintain such Ground in good Order.

3. The Corporation shall from Time to Time, at their own Costs and Charges, repair, maintain, and keep in repair and in a good and decent State of Preservation, all and singular the Fences, Walks, Graves, Tombstones, and Premises for the Time being in or about the Burial Ground, and shall from Time to Time, so far and to such an Extent as to the Corporation may seem necessary or proper, renew and replace such of them as shall be worn out or decayed, and shall also cover with Turf or Gravel, or lay out in ornamental Beds or Gardens, or plant with Trees or Shrubs, such Portions of the Burial Ground as shall not be for the Time being used or occupied either as Walks or as the Site of Graves, Vaults, or Tombs, and shall from Time to Time permit and suffer all Persons desiring the same to have Access to the Burial Ground or any Part thereof at all reasonable Times, without Fee or Reward, under such Regulations as the Corporation shall think fit.

Corporation may bring Actions in respect of Injury to Burial Ground.

4. The Corporation may from Time to Time in their own Name bring any Action of Ejectment or Trespass, or other Action at Law or Suit in Equity, for recovering or defending the Possession, or for obtaining the Payment of Damages, or any Mandamus or Injunction in respect of or against any actual or contemplated Injury or Damage to the Burial Ground, or any Part or Parts thereof, or the Fences, Walks, Graves, Tombstones, and Premises in or about the same; and in every such Action, Suit, or other Proceeding all the Parties thereto shall be bound to assume and shall be absolutely estopped from denying the Title of the Corporation to the Possession of the Burial Ground and the Fences, Walks, Graves, Tombstones, and Premises in or about the same.

Ecclesiastical Commissioners may assume Management of Burial Ground.

5. Provided always, That in case the Ecclesiastical Commissioners shall at any Time hereafter desire to take upon themselves the Charge, Management, and keeping up of the Burial Ground and the Fences, Walks, Graves, Tombstones, and Premises, and of such their Desire shall give a written Notification, under their Common Seal, to the Town Clerk for the Time being of the said City of London, then and in such Case, from and after the Expiration of Six Calendar Months after the Delivery of such Notice, the Clauses herein-before contained shall be thenceforth read and construed as if

if the Words "the Ecclesiastical Commissioners" were throughout the same Clauses substituted for the Words "the Corporation," and the Corporation shall thenceforth be wholly relieved and discharged from the Care, Preservation, and Regulation of the Burial Ground, and from all Obligation and Responsibility in relation thereto.

Saving the Rights of Her Majesty.

6. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, his, her, and their Successors, Executors, and Administrators, (other than and except the said Mayor, Commonalty, and Citizens of the said City of London, and the Ecclesiastical Commissioners for England and their respective Successors,) all such Estate, Right, Title, Interest, Benefit, Profit, Claim, and Demand whatsoever of, in, to, or out of the Burial Ground, and the Fences, Walks, Graves, Tombstones, and Premises respectively, as they, every, or any of them had before the passing of this Act, or could or might have had, held, and enjoyed in case this Act had not been made.

Saving the Rights of the Ecclesiastical Commissioners.

7. Provided always, That nothing herein contained shall affect any Right, Claim, or Interest of the Ecclesiastical Commissioners for England upon or against the said Mayor, Commonalty, and Citizens for or on account of any Portion or Portions of the Rents or other Payments either already or to be hereafter received by the said Mayor, Commonalty, and Citizens in their Character of Lessees under the said Lease of the Thirtieth Day of May One thousand seven hundred and sixty-nine for or in respect of the said Burial Ground or any of the Graves, Tombs, or Vaults in or about the same.

The SCHEDULE.

All that Piece or Parcel of Land or Ground and Hereditaments commonly called Bunhill Fields Burial Ground, situate in Bunhill Fields in the Parish of Saint Luke in the County of Middlesex, abutting on the West on the Backs of Houses in Bunhill Row, on the South partly on the Ground of the Honorable Artillery Company and partly on the City of London Militia Barracks, on the East partly on a Road called City Road and partly on the Backs of Houses in the said Road, and on the North partly on the Sides of Houses in the City Road and partly on the Backs of Houses in Featherstone Street, and containing the several Dimensions following; that is to say, on the West Side thereof from North to South 415 Feet or thereabouts; on the South Side thereof, from West to East, 520 Feet or thereabouts; on the East Side thereof as the same abuts on City Road aforesaid 240 Feet or thereabouts; then running Westward as the same abuts on the Sides of Houses in City Road 145 Feet or thereabouts; then running Northwards as the same abuts on the Backs of Houses in City Road 170 Feet or thereabouts; and then running Westward as the same abuts on the Backs of Houses in Featherstone Street aforesaid 395 Feet or thereabouts.

Ground.

A

BILL

For the Preservation of Bunhill Fields Burial Ground in the County of Middlesex as an open Space; and for other Purposes relating thereto.

(*Prepared and brought in by Mr. Crawford, Mr. Göschen, Sir Morton Peto, and Mr. Remington Mills.*)

Ordered, by The House of Commons, *to be Printed*, 2 *April* 1867.

[Bill 107.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law which regulates the Burials of Persons in Ireland not belonging to the Established Church.

WHEREAS it is expedient to amend the Law of Burial in Ireland: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Where Burials of Persons not belonging to United Church of England and Ireland take place in Burial Grounds of such Church, Priest, &c. of other Denomination may perform Service.

1. That whenever after the *passing of this Act* any Person, notwithstanding that he may not have belonged to the United Church of England and Ireland, shall be buried within any Churchyard or Graveyard attached or belonging to any Rectory, Vicarage, Church, or Chapel of such Church, it shall be lawful for the Priest or Clergyman of the Religious Denomination to which such Person may have belonged at his or her Death, without any previous Permission having been obtained or asked for, to attend such Burial, and thereat to read such Prayers or perform such Burial Service as is usual and customary at Burials of Persons belonging to such Religious Denomination; and any Person wilfully obstructing such Prayers or Burial Service shall be deemed guilty of a Misdemeanor, and shall be liable to be prosecuted therefor.

2. Nothing

Prohibition of Interference with Burial.

2. Nothing herein contained shall authorize or justify any Interference with or Interruption of the Celebration of Divine Service in the Church or Chapel to which such Churchyard or Graveyard may be attached or belong, or the Obstruction of Persons going thereto or returning therefrom.

Extent of Act.

3. This Act shall extend to Ireland only.

Burials (Ireland).

A

BILL

To amend the Law which regulates the Burials of Persons in Ireland not belonging to the Established Church.

(*Prepared and brought in by Mr. Monsell and Mr. Sullivan.*)

Ordered, by The House of Commons, *to be Printed, 4th April* 1867.

[Bill 109.]

Under 1 *oz.*

A

B I L L

FOR

Authorizing a Guarantee of Interest on a Loan to be raised by Canada towards the Construction of a Railway connecting Quebec and Halifax.

WHEREAS the Construction of a Railway, connecting the Port of Rivière du Loup in the Province of Quebec with the Line of Railway leading from the City of Halifax in the Province of Nova Scotia at or near the Town of Truro, in a Line and on Conditions approved by One of Her Majesty's Principal Secretaries of State, would conduce to the Welfare of Canada and promote the Interests of the British Empire: Preamble.

And whereas it would greatly facilitate the Construction of that Railway (in this Act referred to as the Railway), if Payment of Interest on Part of the Money required to be raised for the same were guaranteed under the Authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Power for Treasury to guarantee Interest on Loan.

1. Subject to the Provisions of this Act, the Commissioners of Her Majesty's Treasury may guarantee, in such Manner and Form as they think fit, Payment of Interest at a Rate not exceeding

exceeding *Four per Centum* per Annum on any Principal Money not exceeding the Sum of *Three million* Pounds Sterling, to be raised by way of Loan by the Government of Canada for the Purpose of the Construction of the Railway; and the Commissioners of Her Majesty's Treasury may from Time to Time cause to be issued out of the Consolidated Fund of the United Kingdom, or the growing Produce thereof, any Money required for giving Effect to such Guarantee.

Approval of Line and Use of Railway for Troops, &c.

2. The Commissioners of Her Majesty's Treasury shall not give any Guarantee under this Act unless and until an Act of the Parliament of Canada has been passed, within Two Years after the Union of Canada under The British North America Act, 1867, providing, to the Satisfaction of One of Her Majesty's Principal Secretaries of State, as follows:

1. For the Construction of the Railway:
2. For the Use of the Railway at all Times for Her Majesty's Military and other Service:

Nor unless and until the Line in which the Railway is to be constructed has been approved by One of Her Majesty's Principal Secretaries of State.

Raising and Expenditure of a Loan charged on Canadian Revenue with Sinking Fund, &c.

3. The Commissioners of Her Majesty's Treasury shall not give any Guarantee under this Act unless and until an Act of the Parliament of Canada has been passed, providing to the Satisfaction of the Commissioners of Her Majesty's Treasury, as follows:

1. For the raising, Appropriation, and Expenditure for the Purpose of the Construction of the Railway of a Loan not exceeding *Three million* Pounds Sterling, bearing Interest at a Rate not exceeding *Four per Centum* per Annum:
2. For charging the Consolidated Revenue Fund of Canada with the Principal and Interest of the Loan immediately after the Charges specifically made thereon by The British North America Act, 1867:
3. For the Payment by the Government of Canada by way of Sinking Fund of an annual Sum at the Rate of *One per Centum* per Annum on the entire Amount of Principal Money whereon Interest is guaranteed, to be remitted to the Commissioners of Her Majesty's Treasury by equal half-yearly Payments in such Manner as they from Time to Time direct, and to be invested and accumulated under their Direction in the Names of Four Trustees, nominated from Time to Time, Two by the Commissioners of Her Majesty's Treasury and Two by the Government of Canada, such Sinking Fund and

and its Accumulations to be applied under the Direction of the Commissioners of Her Majesty's Treasury in discharge of Principal Money whereon Interest is guaranteed:

4. For charging the Consolidated Revenue Fund of Canada with the Amount of the Sinking Fund immediately after the Principal and Interest of the Loan:

5. For charging the Consolidated Revenue Fund of Canada with any Sum issued out of the Consolidated Fund of the United Kingdom under this Act, with Interest thereon at the Rate of *Five per Centum* per Annum, immediately after the Sinking Fund:

6. For Continuance of the Sinking Fund until all Principal and Interest of the Loan, and all Sums issued out of the Consolidated Fund of the United Kingdom under this Act, and all Interest thereon, are fully discharged, or until the Sinking Fund and its Accumulations are adequate to discharge so much thereof as remains undischarged:

7. For the raising by the Government of Canada (without Guarantee by the Commissioners of Her Majesty's Treasury) of all such Money (if any) beyond the Sum of *Three million* Pounds Sterling as, in the Opinion of One of Her Majesty's Principal Secretaries of State, will be requisite for the Construction of the Railway, and for charging the Consolidated Revenue Fund of Canada with the Money so raised, and Interest, immediately after the Charges made thereon in pursuance of the foregoing Provisions of this Section.

Statement and Account to be laid before Houses of Parliament.

4. There shall be laid before both Houses of Parliament, within *Fourteen Days* next after the Beginning of every Session, a Statement and Account showing what has been done from Time to Time in execution or pursuance of this Act by or under the Direction of the Commissioners of Her Majesty's Treasury, and One of Her Majesty's Principal Secretaries of State, and the Parliament and Government of Canada.

Short Title.

5. This Act may be cited as The Canada Railway Loan Act, 1867.

Canada Railway Loan.

A

BILL

For authorizing a Guarantee of Interest on a Loan to be raised by Canada towards the Construction of a Railway connecting Quebec and Halifax.

(*Prepared and brought in by Mr. Chancellor of the Exchequer, Mr. Adderley, and Mr. Hunt.*)

Ordered, by The House of Commons, *to be Printed*, 29 *March* 1867.

[Bill 99.]

Under 1 *oz.*

A

BILL

TO

Uncollegiate the Parish of Canongate within the Parliamentary Burgh of Edinburgh, to reduce the Amount of the Annuity Tax within the said Parish, and to make Provision for the Maintenance of Two Ministers therein.

Preamble.

WHEREAS it is expedient to uncollegiate the Parish of Canongate within the Parliamentary Burgh of Edinburgh, to reduce the Amount of the Annuity-Tax within said Parish, and to make Provision for the Maintenance of Two Ministers therein:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—

Interpretation of Terms.

1. The following Words and Expressions in this Act shall have the several Meanings hereby assigned to them:,

The Expression "Ecclesiastical Commissioners" shall mean the Commissioners appointed and incorporated under the Act Twenty-third and Twenty-fourth Victoria, Chapter Fifty, intituled, "An Act to abolish the Annuity Tax in Edinburgh and

" and Montrose, and to make Provision in regard to the Stipends " of the Ministers in that City and Burgh, and also to make " Provision for the Patronage of the Church of North Leith :"

The Expression " Magistrates and Council" shall mean the Lord Provost, Magistrates, and Council of the City of Edinburgh for the Time being.

Parish of Canongate to be uncollegiated.

2. From and after the *passing of this Act* the Second Charge of the Parish of Canongate, of which the Patronage now belongs to the Heritors, Kirk Session, Members, and others, shall lapse, and the whole Duties of Minister of the Parish of Canongate, subject to the Provisions herein-after made for the Constitution of a quoad sacra Parish, shall devolve upon the Reverend Daniel M'Fie, the present Second Minister, who shall in future be the Minister of the Parish of Canongate, and upon his Successors in Office ; and his Successors in Office, Ministers of Canongate, shall be appointed by the Crown as Patron of said Parish of Canongate.

Constitution of quoad sacra Parish of New Canongate.

3. The Church situated within the said Parish of Canongate called " New Street Church" shall from and after the *passing of this Act* be erected into a Parish Church quoad sacra, to the same Effect as if it had been erected under the Provisions of the Act of the Seventh and Eighth Victoria, Chapter Forty-four, intituled "An Act " to facilitate the disjoining or dividing of extensive or populous Pa- " rishes and the erecting of new Parishes in that Part of the United " Kingdom called Scotland," and the District marked out and designated in Schedule (A.) hereto appended shall be the District to be attached to the said Church quoad sacra ; and the said Church and District quoad sacra are hereby disjoined from the said Parish of Canongate, to which the same now belong, and erected into a Church and Parish quoad sacra, in connexion with the Church of Scotland, to be called the Church and Parish of New Canongate ; and the Minister and Elders of the said Church and Parish shall have and enjoy the Status and all the Powers, Rights, and Privileges of a Parish Minister and Elders of the Church of Scotland ; and the Patronage of the said Church and Parish shall be and is hereby vested in the Ecclesiastical Commissioners, and the said Church and Parish shall thereafter form a Church and Parish quoad sacra, in the same Manner in all respects as a Church and Parish quoad sacra erected in Terms of the Provisions of the said Act Seventh and Eighth Victoria, Chapter Forty-four, with Power to the said Commissioners, if they shall deem it to be proper, to transfer the said Church of New Canongate and their Rights in the said Parish quoad sacra to Trustees to be appointed in Terms of the said last-recited Act.

4. From

Reduction of Annuity Tax, and Rate which may hereafter be levied.

4. From and after the Term of *Whitsunday One thousand eight hundred and sixty-eight* the Impost or Tax now levied under the name of the Annuity Tax within the Parish of Canongate, for the Maintenance in Part of the Ministers thereof, shall be reduced to a Tax which will be sufficient to produce a clear Sum of *Two hundred and fifty Pounds* by the Year, said Sum being held to be the Equivalent for an Assessment at the Rate of Threepence for every Pound of the gross yearly Value of the Lands and Heritages, excluding those which belong to Departments of the State, situated within the Limits of the said Parish of Canongate, including the said quoad sacra Parish; and the said reduced Tax shall be called the Canongate Annuity Tax, and shall be levied by the Parochial Board of said Parish along with but separate from the Assessments imposed under the Provisions of the Act Eighth and Ninth Victoria, Chapter Eighty-three; and the Collector or Collectors of the Assessments under the said Act shall also be the Collector or Collectors of the said Canongate Annuity Tax, and the said Parochial Board shall account for and pay over to the Ecclesiastical Commissioners the said Sum of Two hundred and fifty Pounds by half-yearly Instalments of One hundred and twenty-five Pounds each, at Candlemas and Whitsunday in each Year, commencing at the Term of
One thousand eight hundred and sixty ; and the said Collector or Collectors shall have all the Powers in regard to enforcing Payment of the said Canongate Annuity Tax which are at present competent to the Collectors of the Assessments imposed by the said last recited Act, or by the "Edinburgh Police Act, 1848," and the "Edinburgh Municipality Extension Act, 1856;" and he or they shall be paid an Allowance for the Collection of the said Tax corresponding to the Allowance paid to him or them for the Collection of the Assessments under the Act Eighth and Ninth Victoria, Chapter Eighty-three: Provided always, that in the event of the Rate imposed for any One Year being insufficient to raise said clear Sum of Two hundred and fifty Pounds, the Rate for the succeeding Year or Years shall be increased so as to raise a Sum sufficient to supply the Deficiency in the preceding Year, as well as the clear Sum of Two hundred and fifty Pounds for the Year for which the Assessment is made: Provided also, that it shall not be competent to the said Parochial Board to assess or recover the said Tax from the Occupiers of Lands and Heritages valued at under Five Pounds a Year; and it shall be competent to the said Parochial Board to exempt from the Assessment such Persons as they shall consider to be unable from Poverty to pay the same.

 5. The

Provisions in regard to Churches and other ecclesiastical Property.

5. The Heritors and other Persons presently liable for the Maintenance and Repair of the Canongate Church and Manse shall be bound to put the same in proper Repair at the Sight of [Blank for Name] Architect as at the Term of *One thousand eight hundred and sixty* , and as at said Date the whole Rights, Administration, and Custody as respects the said Churches of Canongate and New Canongate, together with the said Churches themselves, and Cellars, Vaults, and the Churchyards attached to either of the said Churches, shall be and the same are hereby vested in the Ecclesiastical Commissioners, for behoof of said Parishes respectively; and the Manse of the Parish of Canongate shall also be vested in the said Ecclesiastical Commissioners, with Power to them, if they consider it expedient, to make Alterations on or to sell the said Manse, the Price obtained thereof, after Deduction of Expenses, to be invested in the Purchase of another Manse, or otherwise, for behoof of the Minister of the Parish of Canongate and his Successors in Office; and the said Heritors and other Parties presently liable for the Maintenance and Repair of said Canongate Church shall, as from the said Term, be relieved from all Obligations or Liability connected with said Churches and Manse.

Mackall's Mortification to be applied for Purposes of this Act.

6. Whereas by Mortification, dated Twenty-second August One thousand six hundred and thirty-nine, David Makcall, Merchant Burgess of Edinburgh, gave certain Sums of Money to be employed by the Magistrates and Council for the Uses therein specified, and, inter alia, he gave a certain Sum for behoof of a Preacher within or in the Neighbourhood of the said Parish of Canongate, which Mortification is at present administered by the Magistrates and Council: And whereas it is desirable that the said Mortification should be applied for the Purposes of this Act; Therefore the said Mortification shall be and is hereby transferred from the Magistrates and Council to and vested in the Ecclesiastical Commissioners, the Interest or yearly Return of which shall be applied by them for the Purposes of this Act.

Bishop's Rents, &c. to be applied for Purposes of this Act.

7. The Bishop's Rents and the Kirkyard Dues at present payable to the Ministers of the said Parish of Canongate, and also such Sum as may be contributed by the Endowment Committee of the Church of Scotland, and such annual Sum as may be contributed by any Department of the State in respect of Property in the said Parish, and such Sums as may be contributed from any other Source for the Purposes of this Act, shall be and are hereby vested in the Ecclesiastical Commissioners for the Purposes of this Act.

8. The

Provisions for letting Seats and Application of Rents.

8. The Pews or Seats in the said Churches shall, from and after *One thousand eight hundred and sixty-eight*, be let by or at the Sight of the Kirk Session of each Church respectively, or at the Sight of the Ecclesiastical Commissioners in the Case of the New Canongate Church so long as there is no Kirk Session in said Church, with the Exception of not less than *One Tenth* of the Number, which shall be reserved as Free Sittings, but subject to any Directions which the Ecclesiastical Commissioners may issue from Time to Time, and subject also to any Rights or Conditions presently attaching to such Pews or Seats; and the Kirk Session of each Church may retain in their Hands out of the Monies to be received for such Pew or Seat Rents, such Sums as shall be fixed by the Ecclesiastical Commissioners for the Payment of the Salaries of Precentors, Door-keepers, or other Church Officers, and for cleaning, heating, and lighting the Church, and for providing Communion Elements, and for such other necessary Expenses in connexion with the Church as shall be allowed by the Ecclesiastical Commissioners; and the Kirk Session shall keep an Account of the whole Monies received by them for Pew or Seat Rents, and of the Sums retained for Payment of Expenses, and shall lay the same before the Ecclesiastical Commissioners yearly, or as often as they shall direct; and the Kirk Session shall pay the whole Balance of the Monies received for Pew or Seat Rents (after making the said Deductions); and in case the Monies received for Pew or Seat Rents in either of the said Churches shall in any Year be insufficient to defray the said Expenses, the Ecclesiastical Commissioners may, out of the other Monies received by them, pay such additional Sum as shall be necessary to make up such Deficiency; and the Right to appoint Precentors, Doorkeepers, and other Church Officers of the said Churches shall belong to and be exercised by the Kirk Sessions of the said Churches respectively.

Provisions for the Ministers.

9. The Ecclesiastical Commissioners shall, out of the Monies vested in them for the Purposes of this Act, pay, in the First Place, in Two equal Portions, at the Terms of *Candlemas and Whitsunday One thousand eight hundred and sixty* , and annually thereafter at the said Terms, to the Minister of the Parish of Canongate and to his Successors in Office, in lieu of the Emoluments at present received by him, the Sum of *Two hundred and fifty Pounds* per Annum; and the said Minister shall also have Right to the Manse attached to the said Parish of Canongate; and the Ecclesiastical Commissioners shall also, out of the said Monies, provide for the Maintenance, Repair, and Insurance against Loss by Fire, of the Fabric of the said Canongate Church; and the Ecclesiastical Commissioners shall thereafter pay to the said Minister of New Canongate

Church, in Two equal Portions, at the said Terms of Candlemas and Whitsunday One thousand eight hundred and sixty , and annually thereafter, the Surplus of the Annual Produce of said Monies, not exceeding the Sum of Two hundred and fifty Pounds; and the Ecclesiastical Commissioners may, out of any Balance of said Monies then remaining in their Hands, provide for the Maintenance and Repair of the Fabric of the said New Canongate Church, and for the Insurance of the same against Loss by Fire; and also for Payment of the Proportion of the Expenses of the Ecclesiastical Commissioners, including such Remuneration as they shall see fit to allow to any Persons employed by them in the Execution of this Act or of the said first-recited Act, and of the Proportion of the Salaries of the Clerk of the Synod of Lothian and Tweeddale, and the Clerk and Officer of the Presbytery of Edinburgh, payable for the said Churches or either of them, and of the other Expenses to be incurred in carrying into effect the Purposes of this Act; and if there shall be any Surplus of the Rents of Church Seats of either of the Churches in the Hands of the Ecclesiastical Commissioners after defraying the Charges herein-before specified, said Surplus shall be paid over to the Minister of the Church which produces said Surplus, and that in addition to the said annual Sum herein-before provided.

Commissioners to keep and publish Account.

10. The Ecclesiastical Commissioners shall cause full and true Accounts to be kept of their whole pecuniary Transactions under this Act, and a State of Accounts or Balance Sheet to be prepared as on the *Thirtieth Day of June* yearly, and inserted not later than the *First Day of August* thereafter Once in at least Two Newspapers published in Edinburgh, setting forth the Amount of Monies received by them from every Source of Income, and of their Disbursements during the same Period, and the total Amount of the Monies laid out and invested by them or remaining in their Hands; and the Accounts of the Ecclesiastical Commissioners under this Act shall, before the Publication of the same annually, be audited and examined in the same Manner as the Accounts of the Ecclesiastical Commissioners are appointed to be audited and examined under the said first-recited Act.

Application of Surplus, if any.

11. Any Balance remaining in the Hands of the Ecclesiastical Commissioners after Provision is duly made for the Payments herein-before described, may be applied, at the Discretion of the Ecclesiastical Commissioners, to any of the Purposes mentioned in the Eighteenth Section of the said first-recited Act: Provided that the Stipends or Salaries of the said Ministers shall be a Preferential Charge on the annual Revenue received by the Ecclesiastical Commissioners,

missioners, and shall be paid before any Part of the same is applied by them to any of the Purposes mentioned in the Eighteenth Section of the said first-recited Act.

Minister of New Canongate to be Mackall's Preacher.

12. The Minister of New Canongate Church for the Time being shall be the Preacher under the Mortification of the said David Makcall, and the Ecclesiastical Commissioners shall have Power to make such Rules and Regulations from Time to Time as they may consider expedient with reference to the Duties of the Preacher under the said Mortification.

Disposal of vacant Stipends.

13. All Stipends payable under this Act, in respect of the Charge becoming vacant, for the Period during which such Charge shall be vacant shall be payable to the Trustees for the Ministers Widows Fund for Scotland in the same Manner and for the same Purposes as the Stipends for vacant Charges are so payable by Law; and the Right of the Widow of the Minister of Canongate Parish to Annat shall not be prejudiced by the Provisions of this Act.

Statutes inconsistent with this repealed.

14. All Laws, Statutes, and Usages inconsistent with the Provisions of this Act are hereby repealed.

SCHEDULE A.

District to be disjoined from the Parish of Canongate and erected into the quoad sacra Church and Parish of New Canongate.

That Portion of the Parish of Canongate included within a Line drawn through the Centre of Leith Wynd, from the High Street of the Canongate to the Foot of the said Wynd; and thence in a straight Line to the North Back of the Canongate; thence along the Centre of the North Back of the Canongate to the Foot of the Tolbooth Wynd; thence along the Tolbooth Wynd to the High Street of the Canongate, and thence along the Centre of that Street to the Head of Leith Wynd.

Canongate (Edinburgh).

A

BILL

To uncollegiate the Parish of Canongate within the Parliamentary Burgh of Edinburgh, to reduce the Amount of the Annuity Tax within the said Parish, and to make Provision for the Maintenance of Two Ministers therein.

(*Prepared and brought in by Sir Graham Montgomery and Mr. Walpole.*)

Ordered, by The House of Commons, *to be Printed*, 26 *June* 1867.

[Bill 210.]

Under 1 *oz.*

LORDS AMENDMENTS

TO THE

CANONGATE ANNUITY TAX (EDINBURGH) BILL.

Note.—*The Page and Line refer to the Bill* (264.) *as printed by the Lords.*

Page 6.

Line 17. After ("them") insert ("under the Provisions of this Act")

Line 33. and Line 34. Leave out from ("Commissioners") to ("may") in Line 39.

Line 39. Leave out ("any") and insert ("the")

Line 42. After ("Fire") insert ("and the Ecclesiastical Commissioners shall thereafter pay to the said Minister of New Canongate Church, in Two equal Portions, at the said Terms of Candlemas and Whitsunday One thousand eight hundred and sixty-nine, and annually thereafter, the Surplus of the annual Produce of said Monies, not exceeding the Sum of Two hundred and fifty Pounds, and not being less than One hundred and twenty Pounds")

Line 43. After ("and") insert ("if there shall be any Balance they shall provide")

Page 7.

At End of Clause 9. add ("Provided always, that the Portions of said Stipends payable at the Term of Candlemas in each Year shall be for the Period from Whitsunday to Michaelmas preceding, and the Portions payable at the Term of Whitsunday shall be for the Period from Michaelmas to Whitsunday")

Line 29. Leave out from ("payable") to ("in") in Line 30.

Line 31. Leave out ("for") and insert ("of"), and leave out ("so") and insert ("now")

[Bill 316.]

TO THE

CANONGATE ANNUITY TAX (EDINBURGH) BILL.

Ordered, by The House of Commons, *to be Printed,*
13 *August* 1867.

[Bill 316.]

Under 1 *oz.*

Capital Punishments within Prisons.

A

BILL

TO

Provide for the carrying into effect Capital Punishments within Prisons.

WHEREAS it is expedient that Capital Punishments should be carried into effect within Prisons: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title of Act.

1. This Act may be cited for all Purposes as "The Capital Punishment Amendment Act, 1867."

Extent of Act.

2. This Act shall not extend to Scotland.

Execution to be within Prison.

3. Judgment of Death to be executed on any Prisoner sentenced after the *passing of this Act* on any Indictment or Inquisition for Murder, shall be carried into effect within the Walls of the Prison in which the Offender is confined at the Time of Execution.

Sheriff, &c. to be present.

4. The Sheriff charged with the Execution, and the Gaoler, Chaplain, and Surgeon of the Prison, and such other Officers of the Prison as the Sheriff requires, shall be present at the Execution.

Any Justice of the Peace for the County, Borough, or other Jurisdiction to which the Prison belongs, and such Relatives of the Prisoner or other Persons as it seems to the Sheriff or the Visiting Justices of the Prison proper to admit within the Prison for the Purpose, may also be present at the Execution.

Surgeon to certify Death; and Declaration to be signed by Sheriff, &c.

5. As soon as may be after Judgment of Death has been executed on the Offender, the Surgeon of the Prison shall examine the Body of the Offender, and shall ascertain the Fact of Death, and shall sign a Certificate thereof, and deliver the same to the Sheriff.

The Sheriff and the Gaoler and Chaplain of the Prison, and such Justices and other Persons present (if any) as the Sheriff requires or allows, shall also sign a Declaration to the Effect that Judgment of Death has been executed on the Offender.

Coroner's Inquest on Body.

6. The Coroner of the Jurisdiction to which the Prison belongs wherein Judgment of Death is executed on any Offender shall within *Twenty-four Hours* after the Execution hold an Inquest on the Body of the Offender, and the Jury at the Inquest shall inquire into and ascertain the Identity of the Body, and whether Judgment of Death was duly executed on the Offender; and the Inquisition shall be in duplicate, and One of the Originals shall be delivered to the Sheriff.

No Officer of the Prison or Prisoner confined therein shall in any Case be a Juror on the Inquest.

Burial of Body.

7. The Body of every Offender executed shall be buried within the Walls of the Prison within which Judgment of Death is executed on him; provided that if One of Her Majesty's Principal Secretaries of State is satisfied on the Representation of the Visiting Justices of a Prison that there is not convenient Space within the Walls thereof for the Burial of Offenders executed therein, he may, by Writing under his Hand, appoint some other fit Place for that Purpose, and the same shall be used accordingly.

Secretary of State may make Rules, &c. to be observed on Execution of Judgment of Death.

8. One of Her Majesty's Principal Secretaries of State shall from Time to Time make such Rules and Regulations to be observed on the Execution of Judgment of Death in every Prison as he may from Time to Time deem expedient for the Purpose, as well of guarding against any Abuse in such Execution as also of giving greater Solemnity to the same, and of making known without the Prison Walls the Fact that such Execution is taking place.

9. All

9. All such Rules and Regulations shall be laid upon the Tables of both Houses of Parliament within *Six Weeks* after the making thereof, or if Parliament be not then sitting within *Fourteen Days* after the next Meeting thereof. Such Rules to be laid before Parliament.

10. If any Person knowingly and wilfully signs any false Certificate or Declaration required by this Act, he shall be guilty of a Misdemeanor, and on Conviction thereof shall be liable, at the Discretion of the Court, to Imprisonment for any Term not exceeding *Two Years*, with or without Hard Labour, and with or without Solitary Confinement. Penalty for signing false Certificate, &c.

11. Every Certificate and Declaration and the Duplicate of the Inquisition required by this Act shall in each Case be sent with all convenient Speed by the Sheriff to One of Her Majesty's Principal Secretaries of State, and printed Copies of the same several Instruments shall as soon as possible be exhibited and shall for *Twenty-four* Hours at least be kept exhibited on or near the principal Entrance of the Prison within which Judgment of Death is executed. Certificate, &c. to be sent to Secretary of State, and exhibited.

12. The Duties and Powers by this Act imposed on or vested in the Sheriff may be performed by and shall be vested in his Under Sheriff or other lawful Deputy acting in his Absence and with his Authority, and any other Officer charged in any Case with the Execution of Judgment of Death. Provisions as to Sheriff, &c. extended.

The Duties and Powers by this Act imposed on or vested in the Gaoler of the Prison may be performed by and shall be vested in the Deputy Gaoler (if any) acting in his Absence and with his Authority, and (if there is no Officer of the Prison called the Gaoler) by the Governor, Keeper, or other Chief Officer of the Prison and his Deputy (if any) acting as aforesaid.

The Duties and Powers by this Act imposed on or vested in the Surgeon may be performed by and shall be vested in the chief Medical Officer of the Prison (if there is no Officer of the Prison called the Surgeon).

The Duties by this Act imposed on the Chaplain may, in the event of the Absence of the Chaplain, be performed by the Assistant Chaplain or other Person acting in place of the Chaplain.

13. The Forms given in the Schedule to this Act, with such Variations or Additions as Circumstances require, shall be used for the respective Purposes in that Schedule indicated, and according to the Directions therein contained. Forms in Schedule.

14. The Omission to comply with any Provision of this Act shall not make the Execution of Judgment of Death illegal in any Case where such Execution would otherwise have been legal. Saving Clause as to Legality of Execution.

General Saving Clause.

15. Except in so far as is hereby otherwise provided Judgment of Death shall be carried into effect in the same Manner as if this Act had not passed.

The SCHEDULE.

Certificate of Surgeon.

I, *A.B.*, the Surgeon [*or as the Case may be*] of the [*describe Prison*], hereby certify that I this Day examined the Body of *C.D.*, on whom Judgment of Death was this Day executed in the [*describe same Prison*]; and that on that Examination I found that the said *C.D.* was dead.

Dated this Day of .

(Signed) *A.B.*

Declaration of Sheriff and others.

We, the undersigned, hereby declare that Judgment of Death was this Day executed on *C.D.* in the [*describe Prison*] in our Presence.

Dated this Day of .

(Signed) *E.F.*, Sheriff of .
L.M., Justice of the Peace for .
G.H., Gaoler of .
J.K., Chaplain of .
&c. &c.

A

BILL

To provide for the carrying into effect Capital Punishments within Prisons.

(*Prepared and brought in by Mr. Secretary Walpole, Mr. Attorney General, and Mr. Solicitor General.*)

Ordered, by The House of Commons, *to be Printed,* 14 *February* 1867.

[Bill 24.]

Under 1 *oz.*

A

BILL

TO

Further amend the Carriers Act.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Carriers Act not to apply to Goods consisting wholly or in part of Silk, if sent to or from a Manufacturer, Dyer, &c.

1. The Provisions of the Carriers Act (that is to say, the Act of the Session held in the Eleventh Year of the Reign of King George the Fourth and the First Year of the Reign of King William the Fourth, Chapter Sixty-eight, "for the more effectual Protection of "Mail Contractors, Stage Coach Proprietors, and other Common "Carriers for Hire, against the Loss of or Injury to Parcels or "Packages delivered to them for Conveyance or Custody, the "Value and Contents of which shall not be declared to them "by the Owners thereof,") shall not be held to apply and shall not apply to any Package or Parcel delivered as aforesaid after the Commencement of this Act, and containing Silks in a manufactured or unmanufactured State, and whether wrought up or not wrought up with other Materials, if the Person sending or delivering the said Package or Parcel, or to whom the said Package or Parcel is addressed or consigned, shall be a bonâ fide Manufacturer, Throwster, or Dyer of Fabrics or Articles consisting wholly or in part of Silk.

2. This

Commencement of Act.

2. This Act shall commence from and immediately after the *Thirtieth Day of September One thousand eight hundred and sixty-seven.*

Short Title.

3. This Act may be cited as "The Carriers Act further Amendment Act, 1867."

Carriers Act Amendment.

A

B I L L

To further amend the Carriers Act.

(Prepared and brought in by
Mr. Bazley, Mr. Cornwall Legh,
Mr. Wilbraham Egerton, and
Mr. William Edward Forster.)

Ordered, by The House of Commons, *to be Printed,*
9 *July* 1867.

[Bill 243.]

Under 1 *oz.*

A

B I L L

TO

Amend the Law of Charitable Donations and Bequests in Ireland.

Preamble. 7 & 8 Vict. c. 97.

WHEREAS it is expedient to amend an Act passed in the Session held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled "An Act for "the more effectual Application of Charitable Donations and "Bequests in Ireland:"

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

7 & 8 Vict. c. 97. and this Act to be construed together.

1. The said "Act for the more effectual Application of Charitable "Donations and Bequests in Ireland, 1844," and this Act, shall be construed together as One Act, and any of the Provisions of the said Act inconsistent with this Act are hereby repealed: Provided, that the Expression "the Commissioners" in this Act shall mean "the Commissioners of Charitable Donations and Bequests for Ireland."

Commissioners to entertain Applications

2. The Commissioners shall receive and consider all Applications which may be made to them by any Trustee or other Person having

for their Opinion or Advice. 16 & 17 Vict. c. 137. s. 16.

having any Concern in the Management or Administration of any Charity for their Opinion, Advice, or Direction respecting such Charity, or the Management or Administration thereof, or the Estate, Funds, Property, or Income thereof, or the Application thereof, or any Question or Dispute relating to the same respectively, and, if they so think fit, may, upon any such Application, give such Opinion or Advice as they may think expedient, subject to any judicial Order or Direction which may be subsequently made or given by any competent Court or Judge, and such Opinion or Advice shall be in Writing signed by or more of the said Commissioners; and every Trustee and other Person who shall act upon or in accordance with the Opinion or Advice given by the said Board shall, in respect of so acting, be deemed and taken, so far as respects his own Responsibility, to have acted in accordance with his Trust; and no such judicial Order or Direction subsequently made or given by any Court or Judge shall have any such retrospective Effect as to interfere with or impair the Indemnity by this Act given to Trustees and other Persons who have acted upon or in accordance with such Opinion or Advice of the Commissioners: Provided always, that nothing herein contained shall extend to indemnify any Trustee or other Person for any Act done in accordance with the Opinion or Advice of the Commissioners, if such Trustee or other Person has been guilty of any Fraud or wilful Concealment or Misrepresentation in obtaining such Opinion or Advice.

Persons acting on Advice of Board to be indemnified.

Commissioners may sanction Compromise of Claims on behalf of Charity. 16 & 17 Vict. c. 137. s. 23. 18 & 19 Vict. c. 124. s. 31.

3. If in any Case it appear to the Trustees or Persons acting in the Administration of any Charity that any Claim or Demand or Cause of Suit against any Person in relation to such Charity, or by any Person against any Charity or the Trustees or Administrators thereof, may with Advantage to the Charity, or should under the special Circumstances of the Case, be compromised or adjusted without taking, resisting, or continuing any Proceedings at Law or in Equity, such Trustees or Persons may, or the Person against whom such Claim, Demand, or Cause of Suit exists or is alleged to exist, or by whom any Claim or Demand is made, may, with the Consent of the Trustees or Persons acting in the Administration of such Charity, submit to the Commissioners a Statement and Proposal for such Compromise or Adjustment; and if it appear to the Commissioners, after such Inquiry in relation thereto as they may deem requisite, or otherwise, that such Proposal, with or without any Modification, is fit and proper, and for the Benefit of the Charity, it shall be lawful for the Commissioners to make such Order for and in relation to such Compromise or Adjustment as they may think fit; and the Commissioners may in like Manner make such Compromise

Compromise of any Claim, Demand, or Cause of Suit, by or against them, in respect of any Property of which they are Trustees or Managers; and upon the due Performance of the Terms and Conditions of such Compromise or Adjustment as aforesaid such Agreement shall be a final Bar to all Actions, Suits, Claims, or Demands, by or on behalf of the Charity concerned therein, in respect of the Cause of Action, Suit, or Matter in respect to which such Compromise or Adjustment shall have been made.

Notices of legal Proceedings as to any Charity by any Person, except the Attorney General, to be given to the Board. 16 & 17 Vict. c. 137. s. 17.

4. Before any Suit, Petition, or other Proceeding (not being an Application in any Suit or Matter actually pending) for obtaining any Relief, Order, or Direction concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, shall be commenced, presented, or taken by any Person other than Her Majesty's Attorney General, there shall be transmitted by such Person to the Commissioners Notice in Writing of such proposed Suit, Petition, or Proceeding, and such Statement, Information, or Particulars as may be requisite or proper, or may be required from Time to Time by the Commissioners, for explaining the Nature and Objects thereof: Provided always, that nothing herein-before contained shall make any Decree, Judgment, Order, or Direction in any Suit, Petition, or Proceedings in which the said Commissioners have not been made Parties binding and final as against the said Commissioners.

Power for Commissioners to certify certain Cases to the Attorney General. 16 & 17 Vict. c. 137. s. 20.

5. In any Case in which it shall appear to the Commissioners that the Institution of legal Proceedings is requisite or desirable with respect to any Charity, or the Estates, Funds, Property, or Affairs thereof, the Commissioners may authorize or direct such Proceedings to be instituted, and give such Directions in relation thereto as they may think proper, and thereupon such Proceedings may be instituted accordingly without any such previous Notice in Writing as herein-before directed; and if it shall appear desirable that any such Proceedings should be instituted by the Attorney General, it shall be lawful for the Commissioners, if they so think fit, to certify such Case, in Writing under the Hand of the Secretary of the Commissioners, to Her Majesty's Attorney General, together with such Statements and Particulars as in the Opinion of the Commissioners may be requisite or proper for the Explanation of such Case; and thereupon the said Attorney General, if upon Consideration of the Circumstances he thinks fit, shall institute and prosecute such legal Proceedings as he shall consider requisite or proper under the Circumstances of the Case.

 6. When-

Commissioners may sue by Civil Bill for Charitable Bequests not exceeding 50*l.*, or for Arrears of Annuities or Rentcharge not exceeding 20*l.*

6. Whenever any Charitable Bequest (not exceeding in Amount the Sum of *Fifty Pounds*), or any annual Sum or Rentcharge (not exceeding in Amount the Sum of *Twenty Pounds*), payable to the Commissioners or other the Trustee or Trustees of any Charity, shall remain unpaid for the Space of *Thirty-one* Days next after the same shall be due, it shall be lawful for the Commissioners, or for the said Trustee or Trustees, with the Sanction of the Commissioners, to recover the same by Civil Bill, in the Court of proper Jurisdiction, against the Person or Persons who shall be liable to pay the same.

In case of certain Bequests, &c., Commissioners may apply or sanction Cypres Doctrine to Funds vested in them or in Trustees respectively.

7. Whenever any Charitable Donation or Bequest not exceeding in Amount the Sum of *One hundred Pounds*, or the Income of any Charity the gross annual Value of which shall not exceed *Ten Pounds*, shall be vested in any Trustee or Trustees, or shall have been recovered by or shall be in any other Manner vested in the Commissioners, and that it shall be found inexpedient, unlawful, or impracticable to apply the same according to the Direction or Intention of the Donor or Donors, it shall be lawful for such Trustee or Trustees, with the Consent in Writing of the Commissioners, and for the Commissioners, to apply the same to such charitable and pious Purposes as they shall judge to be nearest and most conformable to the Directions and Intentions of the Donor or Donors: Provided always, that the Commissioners may grant or withhold such Consent as they may think fit.

In case of certain Bequests, &c., Trustees or Commissioners may state Case for Court of Chancery; Court to apply Cypres Doctrine.

8. Whenever the Amount of any Charitable Donation or Bequest which shall be greater than *One hundred Pounds* but shall not exceed *Five hundred Pounds*, or the clear annual Value of the Income of the Property of any Charity which shall be greater than *Ten Pounds* but shall not exceed *Forty Pounds*, shall be vested in any Trustee or Trustees, or shall have been recovered by or shall be in any other Manner vested in the Commissioners, and that it shall be found inexpedient, unlawful, or impracticable to apply the same according to the Direction or Intention of the Donor or Donors, it shall be lawful for such Trustee or Trustees, with the Consent in Writing of the Commissioners previously obtained, or for the Commissioners, to present a Petition to the Court of Chancery in Ireland, stating the Nature and Amount of such Charitable Donation, Bequest, Property, or Income, the Direction or Intention of the Donor or Donors in respect thereof, and the Reason why it is found inexpedient, unlawful, or impracticable to apply the same according to such Direction or Intention, and, if the Commissioners shall think fit, proposing a Scheme for the Application

Application thereof, for the Approval of the Court, and praying that the Court may order the same to be applied to such charitable or pious Purposes as shall be deemed to be nearest and most conformable to the Directions and Intentions of the Donor or Donors; and it shall be lawful for the Court to hear such Petition in a summary Way, and upon Affidavits, or such other Evidence as shall be produced upon such Hearing, to determine the same and give Judgment thereon, and to settle and approve of the said Scheme with or without Variation, or to settle, approve of, and appoint some other Scheme for such Purpose; and such Judgment shall bind all such Persons as the Court shall direct, and in default of such Direction then shall bind the Trustee or Trustees or the Commissioners who have presented the Petition.

Any Person or Trustee may transfer Fund to Commissioners with their Consent, to be held by them in trust.

9. It shall be lawful for any Person entitled to any present or future Interest in any Fund, whether consisting of Government Stock or Annuities, Stock or Shares in any public Company, or Monies invested on any other Security, by Deed duly executed, and with the Consent in Writing of the Commissioners previously obtained, or by Will or Codicil, to assign or bequeath his Interest in such Fund, or in any Part thereof, to the Commissioners in trust for any such charitable or pious Purposes as he may direct; provided that the Commissioners shall not be bound to accept of any such Bequest; and it shall also be lawful for any Person in whom any Fund shall be vested in trust for any charitable or pious Purpose, with the Consent in Writing of the Commissioners, to transfer to them all or any Part of such Fund to be held by them for the Purpose aforesaid; and the Fund so assigned, bequeathed, and accepted or transferred, as the Case may be, shall thenceforth be held by the Commissioners upon and for the Trusts and Purposes upon and for which the same respectively shall have been assigned, bequeathed, or transferred, or such of the same Trusts and Purposes as shall for the Time being be subsisting or capable of taking effect.

Deeds, &c. may be deposited in Repository provided by Commissioners. 16 & 17 Vict. c. 137. s. 53.

10. It shall be lawful for any Trustees or other Persons having the Custody of any Deeds or Muniments of or relating to any Charity to deposit the same for Security in a Repository which may be provided by the Commissioners, subject to any Regulations to be made by the Commissioners under this Act.

Consent of Commissioners necessary to any Change of Investment

11. When, under the Provisions of any Deed, Will, or other Instrument, any Fund, whether consisting of Government Stock or Annuities, Stock or Shares in any public Company, or Monies invested on any other Security, shall be held by any Person or

by Trustees of Funds held for charitable or pious Purposes.

Persons upon trust, after the Determination of or subject to any prior Life or other limited Interest or Interests, for any charitable or pious Purposes, such Trustee or Trustees shall, before they shall proceed to vary, alter, or transpose the Stock, Annuities, Shares, or Securities in or upon which such Fund, or any Part thereof, shall for the Time being be invested, give Notice in Writing to the Commissioners of his or their Intention so to do, and shall not so vary, alter, or transpose the same, or any Part thereof, for the Space of *One Month* after such Notice; and if within such Month the Commissioners shall give Notice in Writing to such Trustee or Trustees that they object to such Variation, Alteration, or Transposition, and specify the Grounds of such Objection, such Trustee or Trustees shall not proceed to make such Variation, Alteration, or Transposition without the Leave of the Court of Chancery to be obtained as herein-after directed; and it shall thereupon be lawful for the said Trustee or Trustees to apply to the Court of Chancery, by Petition in a summary Way, for the Opinion of the Court as to the Propriety of such Variation, Alteration, or Transposition, and the said Trustee or Trustees shall give Notice of such Application to the Commissioners, and to any other Persons whom the Court may direct, and the Court may thereupon make such Order as shall seem just, which Order shall be binding on said Trustee, Trustees, and Commissioners, as to the Propriety of such Variation, Alteration, or Transposition, and the said Court shall have Power to make such Order as to the Costs of such Proceeding, and the Fund out of which the same shall be paid, as shall seem fit.

Commissioners may sanction Building Leases, working Mines, doing Repairs and Improvements. 16 & 17 Vict. c. 137. s. 21.

12. If in any Case it appear to the Trustees or Persons for the Time being acting in the Administration or Management of any Charity, or the Estates or Property thereof, that any Part of the Charity Lands or Estates may be beneficially let on Building, Repairing, Improving, or other Leases, or on Leases for working any Mine, or that the digging for or raising of Stone, Clay, Gravel, or other Minerals, or the cutting of Timber, would be for the Benefit of the Charity, or that it would be for the Benefit of such Charity that any new Road or Street should be formed or laid out, or any Drains or Sewers made, through any Part of the Charity Estates, or that any new Building should be erected, or that any existing Building should be repaired, altered, rebuilt, or wholly removed, or that any other Improvements or Alterations in the State or Condition of the Lands or Estates of such Charity should be made, it shall be lawful for such Trustees or Persons to lay before the Commissioners a Statement and Proposal in relation to any of the Matters aforesaid; and it shall be lawful for the Commissioners, if they think that the Leases or Acts to which the Statement

ment and Proposal relate (with or without Modifications or Alterations) would be beneficial to the Charity, to make such Order under their Seal for and in relation to the granting of such Leases, or the doing of any other such Acts as aforesaid, and any Circumstances connected therewith, as they may think fit, although such Leases or Acts respectively shall not be authorized or permitted by the Trust; and it shall be lawful for the Commissioners in respect of Property of which they are the Trustees or Managers to execute such Leases, and do such Acts for any of the said Purposes, as they may think fit; and the said Commissioners by any such Order may authorize the Application of any Monies or Funds belonging to the Charity to which such Order refers for any of the Purposes or Acts aforesaid, and, if necessary, may authorize the Trustees of any Charity to which any such Order refers to raise any Sum of Money by Mortgage of all or any Part of the said Charity Estates, and the Commissioners in like Manner may raise any Sum of Money by Mortgage of all or any Part of the Property belonging to such Charity in respect of which they are Trustees or Managers; provided that compulsory Provisions be reserved in every such Mortgage for the Payment of the Principal Money borrowed by annual Instalments, and for the Redemption and Reconveyance of the mortgaged Estates within the Period of not more than *Thirty Years*.

and may authorize the Application of the Charity Funds, or the raising of Money on Mortgages, for those Purposes.

13. When Application shall be made to the Commissioners by the Trustees or Persons acting in the Administration of any Charity representing that, under the special Circumstances of any Land belonging to any Charity, a Sale or Exchange or a Surrender of a Lease of such Land can be effected on such Terms as to increase the Income of the Charity, or as otherwise to be advantageous to the Charity, the Commissioners may, if they think fit, inquire into such Circumstances, and if after Inquiry they are satisfied that the proposed Sale or Exchange or Surrender will be advantageous to the Charity, or if it appear to the Commisioners, in respect of any Property of which they are Trustees or Managers, that any Sale, Exchange, or Surrender of a Lease of any Land being Part of such Property would be beneficial to the said Property, they may authorize or make such Sale or Exchange or Surrender, and give such Directions in relation thereto, and for securing the due Investment of the Money arising therefrom, for the Benefit of the Charity, as they may think fit.

Commissioners under special Circumstances may authorize or make Sale or Exchange of Charity Lands. 16 & 17 Vict. c. 137. s. 24.

14. The Commissioners shall have Authority, upon Application and after Inquiry as aforesaid, or in case it shall appear to them to be of Advantage to any Charity of the Property of which they are

Commissioners may authorize the Redemp-

tion of Rentcharges. 16 & 17 Vict. c. 137. s. 25.

Trustees or Managers, to authorize or make a Sale to the Owner of the Land charged therewith of any Rentcharge, Annuity, or other periodical Payment charged upon Land, and payable to or for the Benefit of any Charity, or applicable to Charitable Purposes, upon such Terms and Conditions as they may deem beneficial to the Charity, and to give such Directions for securing the due Investment of the Money arising from such Sale for the Benefit of the Charity, or for securing the due Application thereof to such Charitable Purposes as they may think fit, and in like Manner the Commissioners, or other the Trustees of any Charity, with the Consent of the Commissioners, may purchase any Rentcharge or other yearly Payment to which the Charity Estate is or shall be liable.

A Majority of Trustees to have legal Power of dealing with the Charity Estates. 23 & 24 Vict. c. 136. s. 16.

15. A Majority of Two Thirds of the Trustees of any Charity assembled at a Meeting of their Body duly constituted, and having Power to determine on any Sale, Exchange, Partition, Mortgage, Lease, or other Disposition of any Property of the Charity, shall have a legal Power, on behalf of themselves and their Co-Trustees, to do, enter into, and execute all such Acts, Deeds, Contracts, and Assurances as shall be requisite for carrying into legal Effect any such Sale, Exchange, Partition, Mortgage, Lease, or Disposition, and all such Acts, Deeds, Contracts, or Assurances shall have the same legal Effect as if the same were respectively done, entered into, or executed by all the acting Trustees for the Time being.

Leases, Sales, &c. authorized by the Board to be valid. 16 & 17 Vict. c. 137. s. 26.

16. The Leases, Sales, Exchanges, and other Transactions authorized by the Commissioners under the Powers of this Act shall have the like Effect and Validity as if they had been authorized by the express Terms of the Trust affecting the Charity.

Trustees of Charities enabled to purchase Sites for Buildings from Owners under Disability, &c., according to the Provisions of Lands Clauses Consolidation Act, 1845. 16 & 17 Vict. c. 137. s. 27.

17. Where any Land shall be required for the Erection or Construction of any House or Building, with or without Garden, Playground, or other Appurtenances, for the Purposes of any Charity, and the Commissioners or other the Trustees of the Charity shall be authorized to purchase and hold such Land, but by reason of the Disability of any Person having an Estate or Interest in such Land, or of any Defect in Title thereto, a valid and perfect Assurance of the same Land cannot be made to the Commissioners or other the Trustees of the Charity in the ordinary Manner, it shall be lawful for the Commissioners or for the Trustees of the Charity, with the Sanction of the Commissioners (such Sanction to be certified under the Hand of their Secretary), to take and purchase such Land according to the Provisions of "The Lands Clauses Consolidation Act, 1845;" and for that Purpose all the Clauses and Provisions of the last-mentioned Act with respect to the Purchase

Purchase of Lands by Agreement, and with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making a Title, and also with respect to Conveyances of Lands, so far as the same Clauses and Provisions respectively are applicable to the Cases contemplated by this Provision, shall be incorporated in this Act; and in all Cases contemplated by this Provision the Expression "the Special Act" used in the said Clauses and Provisions of the said "Lands Clauses Consolidation Act" shall be construed to mean this Act; and the Expression "the Promoters of the Undertaking" used in the same Clauses and Provisions shall be construed to mean the Commissioners or other the Trustees of the Charity in question.

Executors or Administrators to publish Advertisements, stating charitable Devises or Bequests. 7 & 8 Vict. c. 97. s. 19.

18. Whenever there shall be contained in any Will a charitable Devise or Bequest, the Persons or Person to whom Probate of any such Will, or Letters of Administration with such Will annexed, shall be granted shall, within Three Calendar Months next after obtaining the same, publish in the Dublin Gazette, and in some Paper circulating in the Locality where the Testator resided, Three Times successively, every charitable Devise or Bequest contained in such Will, the Name of the Testator and Date of such Will or Codicil, and the Name of the Person or Persons to whom such charitable Devise or Bequest is given and bequeathed, and the Name of the Person or Persons appointed by the Testator for the Management and Direction thereof; and the Expense of such Publication shall be paid by the said Executor or Executors, Administrator or Administrators, out of the Estate or Funds devised or bequeathed to the said respective Charities; and every such Person or Persons who shall neglect to publish the same in manner herein-before required shall for every such Neglect be liable to a Penalty not exceeding *Twenty Pounds* Sterling, to be recovered by the Commissioners, who shall sue for the same by Civil Bill in the Court of proper Jurisdiction: Provided always, that any Sum or Sums recovered by way of Penalty or Penalties for such Neglect by the Commissioners from any Executor or Executors, Administrator or Administrators, shall be accounted for and paid to the Lords Commissioners of Her Majesty's Treasury, or applied in such Manner as they shall direct.

Registrars of Court of Probate to make Return to Commissioners of Charitable Donations,

19. From and after the Commencement of this Act the Registrars of the Court of Probate shall make a Return to the Commissioners between the First Day of July and the First Day of November in every Year, certified by them under their Hands, of every charitable Devise or Bequest contained in any Will which

&c. of every Charitable Donation contained in any Will entered in the Office of such Registrars. 7 & 8 Vict. c. 97. s. 19.

shall be entered in the Office of such Registrar, which Return shall likewise contain the Name of the Testator, the Name or Names of the Person or Persons to whom Probate of any such Will, or Letters of Administration with such Will annexed, shall have been granted, with the Date of such Will, Probate, or Administration; and the same shall be lodged with One of the Secretaries of the said Commissioners; and every such Officer as aforesaid who shall neglect to make such Return as aforesaid shall forfeit the Sum of *Twenty Pounds* Sterling, to be recovered by the Commissioners, who shall sue for the same by Civil Bill in the Court of proper Jurisdiction.

Officers having Custody of Records to furnish Copies and Extracts if required by Commissioners.

20. Any Officer having the Custody of Enrolments, Decrees, Reports, Records, and other Documents relating to or concerning any Charity, shall furnish such Copies or Extracts as shall be required by the Commissioners; and every Secretary or other Officer of the said Commissioners for the Time being employed for the Purpose of this Act shall be at liberty, by the Authority and under the Directions of the Commissioners, and subject to such Regulations as the Commissioners may make in that Behalf, to examine and search the Registers and Records of every Court of Law and Equity, and every Ecclesiastical Court, and every Public Registry and Office of Records, and to take Copies of and Extracts from any Decree or Document recorded or registered or deposited therein respectively, for any of the Purposes of this Act, without Fee or Payment in respect thereof.

Persons acting in Execution of Act not to be personally liable.

Costs to be borne by Charity.

21. No Matter or Thing done by the Commissioners or by any Commissioner, or by any Officer or Person whomsoever acting under the Directions of the Commissioners, shall, if the same is done bonâ fide for the Purpose of executing this Act, subject them, him, or any of them personally to any Action, Liability, Claim, or Demand whatsoever; and any Costs or Expenses incurred by them, him, or any of them in the Management or for the Preservation or Recovery of any Property vested in the Commissioners, or otherwise in the Execution of this Act, shall be borne by and deducted by the Commissioners from the Estate and Funds of the Charity in respect of which the said Costs and Expenses were incurred.

Charitable Donations and Bequests (Ireland).

A

BILL

To amend the Law of Charitable Donations and Bequests in Ireland.

(Prepared and brought in by Mr. Solicitor General for Ireland and Mr. Attorney General for Ireland.)

Ordered, by The House of Commons, *to be Printed,* 22 *February* 1867.

[Bill 49.]

Under 2 *oz.*

A

BILL

INTITULED

An Act for the Appointment of a Stipendiary Magistrate for Chatham and Sheerness in the County of Kent.

[Note.—*The Words and Clauses printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS it is expedient that a Stipendiary Magistrate be appointed to act in and for the Town of Chatham within the Limits of the Parliamentary Borough of Chatham (in this Act referred to as Chatham), and in and for that Part of the Town of Sheerness within which The Local Government Act, 1858, is in force for the Time being (in this Act referred to as Sheerness): Preamble

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. This Act may be cited as The Chatham and Sheerness Stipendiary Magistrate Act, 1867. Short Title.

2. It shall be lawful for Her Majesty, from Time to Time, by Warrant under Her Royal Sign Manual, to appoint a fit Person, being a Barrister of not less than Five Years Standing, to be, during Her Majesty's Pleasure, Stipendiary Magistrate for Chatham and Appointment of Magistrate for Sheerness.

and Sheerness and a Justice of the Peace for and within those Places.

Qualification of Magistrate.

3. It shall not be necessary for any Person so appointed to have any Qualification by Estate, but no Person disqualified to be a Justice of the Peace otherwise than in respect of Estate shall be so appointed.

Magistrate to take Oaths.

4. A Person so appointed shall not act as Magistrate under this Act until he has taken and subscribed before a Judge of One of the Superior Courts of Law at Westminster the Oaths required to be taken and subscribed by Justices of the Peace, except the Oath of Qualification.

Restriction on Magistrate acting as Justice.

5. The Magistrate shall not, by virtue of his Appointment under this Act, act as a Justice of the Peace at a Court of Gaol Delivery or General or Quarter Sessions, or in the making or levying of a County Rate.

Jurisdiction over Estuary of Thames.

6. The Jurisdiction of the Magistrate shall extend over the whole of the Waters of the Estuary of the River Thames below Gravesend, whether within the Body of the County of Kent or not, and everything done or happening in any Part of those Waters shall, in relation to the Exercise and Discharge of the Powers and Duties of the Magistrate, and to all Proceedings before and by him, and to all Orders and Acts made and done by him, and to all Proceedings, Orders, and Acts arising thereout or consequent thereon, be deemed to have been done or to have happened within the Body of the County of Kent.

Execution of Summons, &c. in County of Kent.

7. Every Summons or Warrant issued by the Magistrate in any Matter within his Jurisdiction may be served and executed by the Constable or Person to whom it is directed in any Part of the County of Kent, and within that County every such Summons or Warrant shall have the same Force as if it had been originally issued or subsequently endorsed by a Justice of the Peace for the County of Kent.

Clerk to Magistrate.

8. The Magistrate shall from Time to Time appoint a fit Person, being an Attorney in actual Practice, to be his Clerk, during his Pleasure, which Clerk shall do all such Work and transact all such Business as is usually done and transacted by Justices Clerks.

Clerk not to be concerned in Matters before Magistrate.

9. The Clerk shall not be concerned, directly or indirectly, by himself or by any Person, in any Matter coming before the Magistrate, or in any Matter arising thereout or consequent thereon in any Court.

10. The

10. The Magistrate and his Clerk shall be exempt and disqualified from being returned and from serving on any Jury or Inquest, and their Names shall not be inserted in any List of Men qualified and liable to serve as Jurors. Exemption from Juries.

CLAUSE A. Provision for Court, &c.

There shall be provided, furnished, and maintained, both in Chatham and in Sheerness, a fit Court and Office for the Sittings of the Magistrate and the Transaction of his Business; and the Rent and Expenses of the Court and Office, and the Expenses of Law and other Books, Printing, and Stationery, and other Expenses connected with or incidental to the Discharge of the Duties of the Magistrate and Clerk, shall be paid and defrayed out of the Funds out of which the Expenses of the Administration of Justice by Justices of the Peace for the County of Kent are defrayed.

CLAUSE B. Salaries of Magistrate, &c.

The Salary of the Magistrate shall be Pounds per Annum and shall be charged on and paid out of the Consolidated Fund of the United Kingdom; and the Salary of the Clerk shall be such as the Commissioners of Her Majesty's Treasury direct, and shall be paid, under the Direction of the Commissioners of Her Majesty's Treasury, out of Money provided by Parliament.

CLAUSE C. Fees to be taken by Clerk.

The Clerk shall take such Fees as are for the Time being authorized to be taken by Justices Clerks in the County of Kent, and shall account for the same at such Times and in such Manner as the Commissioners of Her Majesty's Treasury direct; and the Sums received in respect of such Fees shall be paid to the Account of Her Majesty's Exchequer, and shall be carried to and form Part of the Consolidated Fund of the United Kingdom.

A Table of such Fees shall be kept affixed conspicuously in the Court.

The Magistrate may, for reasonable Cause, remit any Fee, wholly or in part.

11. The Magistrate may award such Costs as to him seem just to be paid to or by either of the Parties to any Charge or Complaint before him, whether a Warrant or Summons has issued or not. Power to award Costs.

CLAUSE D. Application of Fines, &c.

All Fines, pecuniary Penalties, and Forfeitures imposed by the Magistrate, except those made payable to the Informer or to the Party aggrieved, or such Part of any of them as is made so payable, and except those recoverable under any Act relating to the Customs, Excise, or other Branch of Her Majesty's Revenue, or to the Post Office, or Trade or Navigation, or under the Factory

Acts, shall be recovered for and adjudged to be paid to the Use of Her Majesty, and the same shall be applied in such Manner as the Commissioners of Her Majesty's Treasury direct.

Chatham and Sheerness Stipendiary Magistrate.

[H.L.]

A

B I L L

INTITULED

An Act for the Appointment of a Stipendiary Magistrate for Chatham and Sheerness in the County of Kent.

(*Brought from the Lords 27 June* 1867.)

Ordered, by The House of Commons, *to be Printed,* 27 *June* 1867.

[Bill 211.] *Under* 1 *oz.*

A

BILL

TO

Authorize the Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the City of Chester, to be held at the Castle of Chester.

WHEREAS the General Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the said City, have for many Years past been held in the Town Hall of the said City : Preamble.

And whereas the said Town Hall has been destroyed by Fire, and there is not now in the said Borough or County of the City of Chester any suitable Court in which the said Quarter Sessions and the said Portmote and Pentice Courts for the said City can be conveniently held :

And whereas there are at the Castle of Chester, and forming Part thereof, commodious and convenient Courts and other Offices and Buildings in which the Business of the said Court of Quarter Sessions and of the said Portmote and Pentice Courts could be carried on with greater Facility and Convenience to the Suitors

therein and to the Public generally than can now be obtained in any Building within the said Borough or County of the City of Chester; but the said Castle of Chester, and the said Courts, Offices, and Buildings, although situate within the Walls of the said City of Chester, are not within the said Borough or County of the City of Chester, having been excepted therefrom by the Charter granted to the said City by His late Majesty King Henry the Seventh and by an Act passed in the Twenty-eighth Year of the Reign of His late Majesty King George the Third respectively:

And whereas it is expedient that during the Erection and building within the said Borough and County of the City of Chester of new and suitable Premises for the holding of the said several Courts the same shall for the Period herein-after mentioned be held at the said Castle of Chester, and that for all Purposes of and connected with the holding of the said Courts the Castle of Chester shall for the said Period be deemed and taken to be within and Part of the said Borough and County of the City of Chester:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Castle of Chester for Purposes of this Act to be deemed within the Borough and County of the City of Chester.

1. The Castle of Chester, including the Courts of Justice, Offices, and Buildings there situate, shall for all Purposes of and connected with the holding of the Court of Quarter Sessions of the Peace for the said Borough and County of the City of Chester, and of the Courts of Portmote and Pentice of the said City, and any and every Adjournment thereof respectively, be deemed and taken to be within and Part of the Borough and City of Chester and of the County of the City of Chester, any Charter, Act of Parliament, or other Provision to the contrary notwithstanding.

Trials had and Acts done at the Castle of Chester to be as valid as if had and done within the Limits of the County of the City as heretofore.

2. All Trials which may be had and all Acts and Proceedings which may be done and taken at the said Castle of Chester, or in any of the said Courts of Justice, Offices, and Buildings there situate, in relation to the Business of the said several Courts of Quarter Sessions and of Portmote and Pentice for the said Borough and County of the City of Chester, or of any and every Adjournment thereof respectively, shall be as valid and effectual as if the same had been had and been done and taken place respectively within the said Borough and City of Chester and the said County of the City of Chester as heretofore known and as defined by the Municipal Corporation Act, or any other Act of Parliament confirming, amending, or altering the same, or by the Charter granted to the said City by His late Majesty King Henry the Seventh, or by any other

other Charter, Act of Parliament, or other Instrument confirming, amending, or altering the same.

3. This Act shall continue in force for *Five Years* next after the passing thereof, and thence to the End of the then next Session of Parliament. Duration of Act.

Chester Courts.

A

BILL

To authorize the Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the City of Chester, to be held at the Castle of Chester.

(Prepared and brought in by Earl Grosvenor and Mr. William Henry Gladstone.)

Ordered, by The House of Commons, *to be Printed*, 7 *March* 1867.

[Bill 69.]

Under 1 *oz.*

A

B I L L

[AS AMENDED ON CONSIDERATION OF BILL AS AMENDED]

TO

Authorize the Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the City of Chester, to be held at the Castle of Chester.

[NEW TITLE FOR THIRD READING.]

A BILL

To authorize the Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the City of Chester, to be held at the Castle of Chester, and to confer additional Powers upon the Sheriff of the County of Chester in exoneration of the Sheriff of the City of Chester.

WHEREAS the General Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the said City, have for many Years past been held in the Town Hall of the said City : Preamble.

And whereas the said Town Hall has been destroyed by Fire, and there is not now in the said Borough or County of the City of Chester any suitable Court in which the said Quarter Sessions and the said Portmote and Pentice Courts for the said City can be conveniently held :

And whereas there are at the Castle of Chester, and forming Part thereof, commodious and convenient Courts and other Offices and

Buildings in which the Business of the said Court of Quarter Sessions and of the said Portmote and Pentice Courts could be carried on with greater Facility and Convenience to the Suitors therein and to the Public generally than can now be obtained in any Building within the said Borough or County of the City of Chester; but the said Castle of Chester, and the said Courts, Offices, and Buildings, although situate within the Walls of the said City of Chester, are not within the said Borough or County of the City of Chester, having been excepted therefrom by the Charter granted to the said City by His late Majesty King Henry the Seventh and by an Act passed in the Twenty-eighth Year of the Reign of His late Majesty King George the Third respectively:

And whereas it is expedient that during the Erection and building within the said Borough and County of the City of Chester of new and suitable Premises for the holding of the said several Courts the same shall for the Period herein-after mentioned be held at the said Castle of Chester, and that for all Purposes of and connected with the holding of the said Courts the Castle of Chester shall for the said Period be deemed and taken to be within and Part of the said Borough and County of the City of Chester:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Castle of Chester for Purposes of this Act to be deemed within the Borough and County of the City of Chester.

1. The Castle of Chester, including the Courts of Justice, Offices, and Buildings there situate, shall for all Purposes of and connected with the holding of the Court of Quarter Sessions of the Peace for the said Borough and County of the City of Chester, and of the Courts of Portmote and Pentice of the said City, and any and every Adjournment thereof respectively, be deemed and taken to be within and Part of the Borough and City of Chester and of the County of the City of Chester, any Charter, Act of Parliament, or other Provision to the contrary notwithstanding.

Trials had and Acts done at the Castle of Chester to be as valid as if had and done within the Limits of the County of the City as heretofore.

2. All Trials which may be had and all Acts and Proceedings which may be done and taken at the said Castle of Chester, or in any of the said Courts of Justice, Offices, and Buildings there situate, in relation to the Business of the said several Courts of Quarter Sessions and of Portmote and Pentice for the said Borough and County of the City of Chester, or of any and every Adjournment thereof respectively, shall be as valid and effectual as if the same had been had and been done and taken place respectively within the said Borough and City of Chester and the said County of the City of Chester as heretofore known and as defined by the Municipal Corporation Act, or any other Act of Parliament confirming, amending, or altering the same, or by the Charter granted to the said City by His late Majesty King Henry the Seventh, or by any other

other Charter, Act of Parliament, or other Instrument confirming, amending, or altering the same.

CLAUSE A. Courts of Quarter Sessions and of Portmote and Pentice not to interfere with the Assizes or Quarter Sessions.

3. The Powers hereby given to hold the said several Courts of Quarter Sessions and of Portmote and Pentice shall be exercised only at such Times as will not interfere with the Assizes or Quarter Sessions of the County of Chester; and in the event of any Injury or Damage arising to the said Courts of Justice, Offices, and Buildings by reason of the same being used for the Purposes of this Act, such Injury and Damage shall forthwith be made good by the Town Council of the Borough and City of Chester; and the Expense of cleaning and lighting the said Courts, Offices, and Buildings during such Use as aforesaid shall be paid by the Town Council of the said Borough and City of Chester.

CLAUSE B. Carrying out Executions for Offences committed in the County of Chester and in the City of Chester.

4. From and after the passing of this Act the Sheriff of the County of Chester shall be charged with and shall carry into effect the Execution of all Prisoners upon whom Judgment of Death shall be passed for Offences committed within the County of Chester; and the Sheriff of the County of the City of Chester shall be charged with and shall carry into effect the Execution of all Prisoners upon whom Judgment of Death shall be passed for Offences committed within the County of the City of Chester, any Statute, Law, Custom, or Usage to the contrary notwithstanding.

Duration of Sects. 1, 2, and 3 of Act.

5. Sections One, Two, and Three of this Act shall only continue in force for Five Years next after the passing thereof, and thence to the End of the then next Session of Parliament, but without Prejudice to the Liability of the said Town Council to make good any Damage which may be occasioned to the said Courts, Offices, and Buildings during their Occupation for the Purposes of this Act, which Liability may be enforced at any Time thereafter.

A

BILL

[AS AMENDED ON CONSIDERATION OF BILL AS AMENDED]

To authorize the Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the City of Chester, to be held at the Castle of Chester.

[NEW TITLE FOR THIRD READING.]

A BILL

To authorize the Quarter Sessions of the Peace for the Borough and City of Chester and County of the same City, and the Portmote and Pentice Courts for the City of Chester, to be held at the Castle of Chester, and to confer additional Powers upon the Sheriff of the County of Chester in exoneration of the Sheriff of the City of Chester.

(*Prepared and brought in by Earl Grosvenor and Mr. William Henry Gladstone.*)

Ordered, by The House of Commons, *to be Printed*, 4 *April* 1867.

[Bill 108.]

Under 1 *oz.*

A

BILL

TO

Repeal certain Ordinances made for the Cathedral or House of Christ Church in Oxford by the Commissioners appointed under the Oxford University Act, 1854, and to substitute a new Ordinance in lieu thereof.

WHEREAS under and by virtue of an Act passed in the Session holden in the Seventeenth and Eighteenth Years of Her Majesty, Chapter Eighty-one, afterwards amended by Acts passed respectively in the Session holden in the Nineteenth and Twentieth Years, and in the Session holden in the Twentieth and Twenty-first Years of Her Majesty, the Commissioners appointed by and under the first of the said Acts made Two Ordinances, dated respectively the Ninth Day of January One thousand eight hundred and fifty-eight, and the Sixteenth Day of April One thousand eight hundred and fifty-eight, in relation to the Cathedral or House of Christ Church in the University of Oxford; and the said Ordinances having been duly approved by Her Majesty in Council, thereupon took effect, and, with certain Alterations since made in manner provided by the said Acts, are now in force as Statutes of the said Cathedral or House: And whereas the said Ordinances have been found to be in various respects defective and insufficient, 17 & 18 Vict. c. 81.

and Questions having arisen in consequence thereof between the Dean, the Canons, and the Senior Students of the said House, it was agreed between the said Dean, Canons, and Senior Students that it should be referred to the Most Reverend the Lord Archbishop of Canterbury, the Right Honourable Sir John Taylor Coleridge, Sir William Page Wood, One of the Vice Chancellors of the High Court of Chancery, Sir Roundell Palmer, Knight, and Edward Turner Boyd Twisleton, Esquire (commonly called the Honourable Edward Turner Boyd Twisleton), (the said Archbishop of Canterbury, Sir John Taylor Coleridge, and Edward Turner Boyd Twisleton being Three of the Commissioners by whom the said Ordinances were made,) to take into consideration all Questions relating to the Government of the said House, the Management and Application of its Revenues, and the Elections to Studentships therein, and to frame such a Scheme for the future Government of the House as they might deem most likely to conduce to its Welfare and Usefulness: And whereas the said Archbishop of Canterbury, Sir John Taylor Coleridge, Sir William Page Wood, Sir Roundell Palmer, and Edward Turner Boyd Twisleton, having considered the Matters referred to them, have recommended certain Alterations in and Additions to the said Ordinances made in the Year One thousand eight hundred and fifty-eight as aforesaid, which cannot be made without the Authority of Parliament, and have expressed their Opinion that such Alterations and Additions may most conveniently be made by substituting for the said Ordinances the amended Ordinance or Body of Regulations in the Schedule to this Act set forth, and have advised that Application should be made to Parliament for that Purpose: And whereas it is expedient that the aforesaid Recommendation should be carried into effect: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Recited Ordinances dated 9th Jan. 1858 and 16th April 1858 repealed.

1. The Two Ordinances made as aforesaid by the Commissioners under the herein-before recited Acts, bearing Date respectively the Ninth Day of January One thousand eight hundred and fifty-eight and the Sixteenth Day of April One thousand eight hundred and fifty-eight, in relation to the Cathedral or House of Christ Church in Oxford, shall be and are hereby repealed, and shall from and after the *passing of this Act* cease to have Force as Statutes of the said Cathedral or House: Provided always, that nothing in this Act or in the Ordinance herein-after confirmed shall take away, alter, or prejudice any existing Right, Distinction, or Privilege acquired under the said repealed Ordinances or either of them, or under any lawful

lawful Practice or Usage of the said House, before the *passing of this Act*, by any Person other than the Dean, Canons, and Senior Students respectively of the said House, or any Right of the said Dean, Canons, and Senior Students or any of them to any Payments or other Matter or Thing which may have become due previously to the passing of this Act.

From passing of Act Ordinance in Schedule to take effect.

2. The Ordinance set forth in the Schedule to this Act shall from and after the *passing of this Act* take effect and have force in lieu of the said repealed Ordinances; and the Regulations therein contained shall thenceforth (subject to the Provisions of this Act and to the Power of Alteration by the same Regulations reserved to Her Majesty in Council) be Statutes of the said House.

Effect of Instruments conveying Real or Personal Property.

3. Any Instrument relating to any Real or Personal Property, the Disposal and Management whereof is by the said Ordinance vested in the Governing Body thereby constituted, when duly sealed with the Corporate Seal of the said House, in the said Ordinance described as the "College Seal," under the Direction of the said Governing Body, shall have the same Effect at Law and in Equity as any like Instrument duly sealed with the Corporate Seal of the Dean and Chapter of the said Cathedral or House under the Direction of the said Dean and Chapter would have had before the passing of this Act.

Short Title.

4. This Act may be cited for all Purposes as "The Christ Church, Oxford, Act, 1867."

SCHEDULE.

THE ORDINANCE OR STATUTES ABOVE REFERRED TO.

I.—The House or Collegiate Foundation.

The House or Collegiate Foundation of the Cathedral Church of Christ, in Oxford, shall include the Dean, Six Canons, Twenty-eight Senior Students, and Fifty-two Junior Students, beside Chaplains and other Ministers and Servants of the said Cathedral Church.

The Six Canonries shall be those annexed respectively to the Regius Professorships of Divinity, Hebrew, Ecclesiastical History and Pastoral Theology, the Lady Margaret's Professorship of Divinity, and the Archdeaconry of Oxford.

It shall be lawful for the Governing Body herein-after mentioned, if and when they shall have at their disposal funds available for the purpose, to increase the number of Senior Studentships above Twenty-eight, and likewise to increase the number of Junior Studentships above Fifty-two by adding to the number of those which are herein-after called Open Junior Studentships. Provided that if, in the exercise of this power, Senior Studentships shall be created, not more than Twelve such Senior Studentships shall be added to the number of Twenty-eight, until Nine new Junior Studentships shall also have been created; and, if Junior Studentships shall be created, not more than Nine such Junior Studentships shall be added to the number of Fifty-two, until Twelve new Senior Studentships shall also have been created.

The number of Chaplains may, if the Dean and Canons shall think fit, be diminished by them as herein-after provided.

The Servitorships existing within the House shall be maintained, either under that designation or under such new designation as the Governing Body herein-after mentioned may determine; and the Exhibitions of the foundation of Archbishop Boulter for Servitors, Mr. Pauncefort, Dr. Gardiner, Bishop Frampton, Dr. Cotton, and Mrs. Paul may, in the latter case, be applied to the support of the persons bearing such altered designation.

II.—The Governing Body: its Constitution and General Powers.

The Government of the Foundation, and the disposal and management of its Possessions and Revenues, including all Estates now vested in the Dean and Chapter, or in the Dean and Canons, or in the Dean and certain of the Canons, upon any Trust for purposes connected with the House, shall be vested in the Dean, Canons, and Senior Students; and all Powers and Authorities whatsoever heretofore exercised by the Dean and Canons alone, or by

by the Dean and Canons conjointly with any other person or persons within the House, shall henceforth be exercised by the Dean, Canons, and Senior Students, as the Governing Body of the House; except only certain powers and authorities which are herein-after expressly reserved to the Dean and Canons.

Students of the House elected before the day on which the Commissioners' Ordinance of the Ninth day of January 1858 was approved by Her Majesty in Council shall, if resident in the University, or holding any Office within the House, be entitled to act as members of the Governing Body. Those only shall for this purpose be considered resident in the University who shall, at the time when the privilege of Residence is claimed or exercised, be qualified as Residents to vote in the Congregation of the University under the Act 17th and 18th Victoria, chapter 81.

III.—The Corporate Seals.

Of the two Seals now in use by the Dean and Chapter, the one called "the Small Seal" shall henceforth be "the Chapter Seal," and be retained for the exclusive use of the Dean and Chapter in the exercise of the powers herein reserved to them, and of other powers ordinarily vested in the Dean and Chapter of a Cathedral Church (except such as are herein specially conferred on the Governing Body hereby constituted); and the other Seal, called "the Large Seal," shall, with a duplicate thereof on a reduced scale, be "the College Seal," and be retained for the use of the Governing Body in the exercise of the powers herein conferred upon them. And the affixing of the College Seal shall be sufficient to pass all interest in real and personal Estate, the property of the House, or held in trust as aforesaid, the disposal and management whereof is hereby vested in the Governing Body.

IV.—Reserved Powers of the Dean and Chapter.

All Powers heretofore lawfully exercised by the Dean and Canons over and in respect of the Cathedral Church itself, its fabric and appurtenances, including the Chapter House, and over the Chaplains, Organist, Schoolmaster, Lay Clerks and Choristers, and other Ministers and Servants of the said Church, and over and in respect of the residentiary houses now occupied by the Dean and the six Canons herein-before referred to, shall be excepted out of the Powers assigned to the Governing Body, and shall be reserved to the Dean and Canons, as Dean and Chapter of the said Cathedral Church; and the Dean and Canons shall have, in respect of the things and persons aforesaid, all the powers now vested in them, or ordinarily vested in the Dean and Chapter of a Cathedral Church, subject only, as to the said Church, to the provision herein-after contained, under which it is, at certain times, to be used and regarded as a College Chapel for members of the House.

The Dean and Chapter may, if they shall think fit, diminish the number of Chaplains to not less than Four, by not filling up vacancies, and may assign to them such stipends, not less individually than the emoluments they have heretofore received, nor less in the aggregate than the emoluments heretofore received by the Six Chaplains, as the Dean and Chapter may think fit.

The Dean and Canons shall likewise have the exclusive disposal of the moneys to be annually set apart as herein-after directed, and to be called respectively the "Cathedral Fabric Fund" and the "Chapter Fund."

In the exercise of the Powers herein reserved to them, and in the disposal of the said Funds, the Dean and Canons shall be free from all control or interference on the part of the Governing Body of the House, and subject only to the legal authority of the Visitor; and the Dean and Canons shall not on their part, otherwise than as individual members of the Governing Body, be entitled to control or interfere with the exercise of the powers herein assigned to the Governing Body.

V.—Use of the Cathedral.

The Governing Body shall have power to arrange Services for the benefit of Undergraduate Members of the House, as well as for College servants, on Sundays and Holy Days, and to determine the time at which such Services shall be celebrated; provided always, that there be no interference with the ordinary Cathedral Service, and further that, in case the Canons should concur in adopting such Collegiate Service as the Cathedral Service also, the right of preaching Sermons or of appointing Preachers (if there should be Sermons) shall remain with the Dean and Chapter.

VI.—Right to Present to Livings.

The right to present to vacant Benefices in the gift of the House, or held in Trust for any Members of the House as such, shall belong in the first instance to the Governing Body, but may be exercised by them only in favour of persons who shall be either Students or Chaplains of the House. If the Governing Body shall not within three calendar months after the avoidance of any Benefice have presented thereto a Student or Chaplain of the House, the right of Presentation shall pass to the Dean and Canons, who may exercise it in favour of any person whom they may think fit.

Separate Funds.

VII.—*The Cathedral Fabric Fund.*

The Governing Body shall, as soon as conveniently may be after these Recommendations shall come into force, and afterwards, once at least in every ten years, cause a Surveyor to report to them in writing what in his opinion will be the average annual expenditure required during the ensuing ten years for the repairs and proper sustentation of the Cathedral and its appurtenances, including the Chapter House. And the Governing Body shall thereupon order that a sum not less than the amount of such estimate shall be set apart in every year of such decennial period, or until a new estimate shall have been laid before them in the same manner. The annual sums so set apart shall form a separate Fund, which shall be called the "Cathedral Fabric Fund," and shall be applied to such repairs as aforesaid, under the exclusive control of the Dean and Chapter.

VIII.—*The Chapter Fund.*

The Governing Body shall further cause to be set apart in every year a sum not less than 17,000*l.*, which shall be applicable, under the exclusive control of the Dean and Canons, to the following purposes, viz.:—

Payment of Stipends or Salaries to the Chaplains, Organist, Schoolmaster, Lay Clerks, Choristers, and other Ministers and Servants of the Cathedral Church, and of all outgoings and expenses whatever on account of or in relation to the said Church or the Celebration of Divine Service therein (other than those provided for by the Fabric Fund).

Payment of Cathedral Alms and Pensions.

Payment to the Dean and existing Canons of their respective Stipends or Emoluments in the accustomed proportions.

IX.—*Regius Professor of Greek's Fund.*

The Governing Body shall cause a yearly sum of 500*l.* to be set apart and paid out of the revenues of the House to the Regius Professor of Greek within the University for the time being, in addition to the two yearly sums of 40*l.* each now payable to the Regius Professor of Hebrew and the Regius Professor of Divinity.

X.—Application of Revenues.

The several sums herein-before directed to be set apart shall be considered as charges on the general revenues of the House, prior to the Studentships. The surplus revenue, after payment of all necessary charges and outgoings whatsoever, including the emoluments of the Senior and Junior Students, shall be at the disposal of the Governing Body, for the increase of the numbers of Senior and of Open Junior Studentships, and for other College purposes; with power, under the conditions and to the extent herein-after mentioned, to divide the same among the senior Students.

The income arising from the Canonry which has been suppressed in pursuance of the Commissioners' Ordinance, and that which will arise from the suppression of the seventh existing Canonry, shall always be applicable to such of the Senior Studentships as are herein-after called Clerical Studentships; yet not so as to raise the emoluments of any Clerical Studentships above those of any Lay Studentship, nor to increase the number of Clerical Studentships above that herein-after fixed.

XI.—Powers of Governing Body as to College Officers and Byelaws.

The Governing Body may from time to time regulate as they shall think fit the duties and emoluments of the officers of the House (not being such officers as are herein-before placed under the control of the Dean and Chapter), and the mode of their appointment or election, and may institute such new offices as they shall deem expedient for the better management of the property, revenue, and affairs of the House, and the instruction and discipline of its members, and may assign to such new offices such stipends or emoluments as the Governing Body shall think proper: Provided that it shall be lawful for the Visitor, upon the petition of any member of the Governing Body, or of any

officer of the House whose stipend or emoluments may have been diminished in exercise of the foregoing power, to disallow such regulation or assignment if he shall think fit.

The Governing Body may from time to time make Bye-laws, binding on the Students, and on all members of the Governing Body, as such: Provided that such Byelaws be not repugnant to any Statute of the House.

XII.—Meetings of the Governing Body.

There shall be two stated General Meetings at least of the Governing Body in each year, on such days as the Governing Body shall appoint. Any stated General Meeting may be adjourned by resolution of the Meeting to a day to be specified in the resolution. The Governing Body may make from time to time such rules for regulating the proceedings at stated or special Meetings and for determining what business shall be transacted thereat, and for fixing (if they shall think fit) the notice to be given before bringing forward any question, as they may deem expedient.

At all Meetings of the Governing Body (including Meetings for the Election or Deprivation of Senior or Junior Students) the Dean shall preside, and his vote shall be counted as two votes; and whenever the votes shall be equal he shall have an additional casting vote. Subject to the foregoing provision, and except in cases in which the concurrence of any specified proportion of the Governing Body is hereby made requisite, every question arising at any Meeting shall be determined by a majority of the votes of those present.

XIII.—The Dean's Powers.

All powers heretofore exercised by the Dean in respect of the general government and superintendence of the House, the enforcement of order and discipline, the appointment and removal of Tutors and otherwise, may be hereafter exercised by him, except so far as the exercise of such powers would be inconsistent with any provision herein contained. The Dean may, if he shall think fit, appoint from among the resident Senior Students a "Censor Theologiæ," who shall perform the functions and possess the powers hitherto performed and possessed by the Sub-Dean in relation to the Discipline of the House, but without prejudice to the precedence and authority enjoyed by the Sub-Dean at meetings of the Governing Body. The office of "Censor Theologiæ," if created, is, like other offices in the House, to be subject to the power of making Bye-laws or Regulations possessed by the Governing Body.

XIV.—The Sub-Dean.

The authority heretofore possessed by the Sub-Dean to act in the place of the Dean in his absence, shall be retained, subject to the operation of the Clause last preceding; and the Sub-Dean shall, at Meetings of the Governing Body, have the same precedence and power, if the Dean be absent, as the Dean would have had, if present.

XV.—The Senior Students.

The election of Senior Students shall be held on a stated day or stated days in each year, to be appointed by the Governing Body (subject to the provision for postponement herein-after contained); and notice of such intended election and of the conditions of election shall be given by the Dean, in such manner as he shall deem best adapted to secure publicity, thirty days at least before the day of election.

The Senior Students shall be persons of unblemished character, conforming to the Liturgy of the United Church of England and Ireland as by law established, who shall have passed all the examinations required by the University for the Degree of Bachelor of Arts, unmarried, and not disqualified by the possession of any such property, benefice, pension, or office, as herein-after mentioned. The Candidates shall be examined in such subjects connected with the studies of the University as the Governing Body shall from time to time determine; provided that the system of examinations shall be such as shall render Senior Studentships accessible from time to time to excellence in every branch of knowledge for the time being recognized in the Schools of the University; and the Governing Body shall choose that Candidate who after such examination shall appear to them to be of the greatest merit and most fit to be a Senior Student of the House as a place of religion, learning, and education. That Candidate for whom the greatest number of votes shall have been given shall be deemed elected. Whenever there shall be no duly qualified Candidate for a vacant Senior Studentship whom the Governing Body shall judge of sufficient merit for election, and whenever a Senior Studentship shall fall vacant and there shall not be time to give the notice herein-before directed before the day of election, the election shall be postponed to some other day, to be fixed by the Governing Body, not later than the next ensuing stated day of election to Senior Studentships; and every such postponed election shall be held and conducted in the same manner, and after the same previous notice, as if there had been no postponement.

Of the said twenty-eight Senior Studentships, nine (including the Lee's Readerships herein-after mentioned) shall be Lay, and nineteen shall be Clerical, Studentships. The holders of the Lay Studentships shall not be required, as a condition of retaining their Studentships, to take Holy Orders; but if any Lay Student should do so, then upon the next vacancy in a Clerical Studentship a Lay Student shall be elected, so that the aforesaid proportion between Lay and Clerical Studentships shall always be preserved as nearly as may be. No person shall be eligible to a Clerical Studentship who shall not either be a Priest or Deacon of the United Church of England and Ireland, or declare that he intends to take Holy Orders in the said Church. Every person who shall have made such declaration, or who at the time of his election shall be in Deacon's Orders, shall be required to take Priest's Orders within four years after the time at which he shall be of sufficient standing, according to the Statutes of the University, to take the Degree of Master of Arts, and in default thereof shall vacate his Studentship: Provided that it shall be lawful for the Governing Body, in case of sickness, or for any other very urgent cause, to grant a delay for a period not exceeding six months. Such additional Senior Studentships as the Governing Body may hereafter establish, to the number of Twelve or fewer, shall likewise be divided

into Clerical and Lay Studentships, one at least in every three being a Lay Studentship. Any Senior Studentships which may be established after the number has been raised to Forty, may also be divided in the same or any other proportion, or may be exclusively Lay or Clerical, as the Governing Body may think fit.

Every person elected to a Senior Studentship shall undergo probation for twelve calendar months from the day of his election inclusive, and at the end of such twelve calendar months shall be admitted an actual Senior Student, if found fit in the judgment of the Governing Body. Every person admitted to probation shall receive during the period of probation the same emoluments as if he had been admitted an actual Senior Student, but shall not be entitled to vote on any occasion.

Every Senior Student who shall marry shall thereupon vacate his Studentship.

Every Senior Student who shall be instituted to an ecclesiastical benefice, or shall become entitled, either by descent or devolution, or by virtue of any testamentary or other gift or settlement, to property, or to any government pension, or be admitted to any office tenable for life or during good behaviour (not being an academical office within the University of Oxford), and who shall retain such benefice, property, pension, or office, for twelve calendar months from the day of his institution, accession, or admission thereto, shall, if such ecclesiastical benefice be a benefice with cure of souls (except in certain cases to be specified as herein-after mentioned), or if the annual income derivable by him from such property, pension, or office, or from any ecclesiastical benefice without cure of souls, or from any two or more of the above-mentioned sources (including or not including a benefice with cure of souls), clear of deductions (except for property or income tax), shall exceed 500*l.*, vacate his Studentship at the expiration of such twelve calendar months; and for this purpose the income which the estimated value of any property would produce, if invested in Three pounds per Centum Consolidated Annuities, at the price current at the time of the acquisition thereof, shall, in case of doubt, be considered to be the income derivable from such property. The Governing Body may, by a Byelaw or Byelaws, declare in what cases a benefice with cure of souls may be tenable with a Senior Studentship. The word "property" shall in this clause include any estate or interest in possession in any property, real or personal. In any case in which the property or sources of income may have been acquired at several times, the latest time at which any part of such property or any of such sources of income shall have been acquired shall, in construing this clause, be considered as the time of the acquisition of the whole thereof. It shall be lawful for the Governing Body to require from any Senior Student any information which they may deem necessary for enabling them to enforce the provisions of this clause.

Every Senior Student who shall be appointed to a Canonry in the House (whether annexed to a Professorship or not), or shall be elected to and accept a Headship or Fellowship in any College within the University of Oxford, or any other University, shall thereupon vacate his Studentship.

The Governing Body may, from time to time, make such regulations respecting the residence of Senior Students within the University, and respecting the mode in which and the conditions under which leave of absence may be granted to any Senior Student, as they may deem expedient for the interests

interests of the House as a place of learning and education, and may vary such regulations from time to time, and may enforce such regulations, if they shall think fit, by pecuniary penalties, and, in case of contumacious non-compliance, by deprivation. Present regulations respecting the residence of Senior Students shall be binding until altered by the Governing Body.

Every holder of a Clerical Studentship shall be required to take the Degree of Master of Arts within one year after the time at which he shall be of sufficient standing to take that Degree by the Statutes of the University; and every holder of a Lay Studentship shall be required to take either the Degree of Master of Arts, or the Degrees of Bachelor and Doctor of Civil Law, or those of Bachelor and Doctor of Medicine, within one year after the times at which he shall be of sufficient standing to take those Degrees respectively by the Statutes of the University. Any Student failing to comply with the foregoing provisions shall vacate his Studentship; provided that the Governing Body may, whenever they shall deem it just on special grounds to do so, allow the taking of any such degree to be postponed for a period not exceeding, except in case of unsoundness of mind or disability of body, one year.

Any Senior Student who shall, in the judgment of the Governing Body, or the major part of it, have been proved guilty of grave immorality, or of contumaciously ceasing to conform to the Liturgy of the United Church of England and Ireland as by law established, shall cease to be a Student of the House; and every Senior Student who shall in like manner have been judged guilty of conduct bringing dishonour upon the House, of gross negligence or misconduct in any office within the same, or of contumacious non-observance of the Statutes or Bye-laws of the House, or of grossly offensive behaviour towards any member thereof, may be deprived of his Studentship by the Governing Body, if, in the judgment of the Governing Body, or the major part of it, the gravity of the offence shall so require.

The emoluments of each Senior Student shall be 200*l.* per annum, exclusive of rooms, but inclusive of all other allowances, or as near thereto as the funds available for the purpose will admit. If and when the number of Senior Studentships and that of Open Junior Studentships shall have been respectively raised to Forty, the surplus Revenues of the House, after all prior charges have been satisfied, may be divided among the Senior Students; but so that the emoluments of a Senior Studentship shall never exceed 300*l.* per annum, exclusive of rooms.

The Governing Body may nevertheless, if they shall think fit, at any time increase the emoluments of every Senior Student who shall be a College Officer, Tutor, Reader, or Lecturer within the House to an amount not exceeding 300*l.* per annum, exclusive of rooms, but inclusive of all other allowances.

XVI.—*Dr. Lee's Readers.*

Of the Senior Students, one shall always be a person qualified to give instruction in Anatomy, and another to give instruction in Chemistry. They shall be called respectively "Dr. Lee's Reader in Anatomy," and "Dr. Lee's Reader in Chemistry," and shall be bound to lecture or otherwise give instruction in those Sciences, as the Governing Body may direct. No person in Holy Orders shall be eligible to either of the said Readerships; and any Reader who shall take Holy Orders shall thereupon vacate his Studentship.

The emoluments of each Reader shall never be less than 200*l.* per annum, exclusive of rooms, but inclusive of all other allowances, and shall be a charge upon the income of the lands and tenements held under the Will of the said Dr. Matthew Lee, posterior to the annual charge or sum of 1,260*l.* herein-after appropriated to Westminster Junior Studentships; if such income shall not be sufficient, they shall be further charged upon the General Revenues of the House. The Lee's Readers shall, as to emoluments and otherwise, be on the same footing as other Senior Students, except that their emoluments are not to fall short of the minimum above specified.

XVII.—*Honorary Students.*

It shall be lawful for the Governing Body, at stated general meetings, to elect distinguished persons to Honorary Studentships within the House. Persons so elected shall be termed Honorary Students, and shall not be entitled to vote on any occasion as Students, or to receive any emolument whatever, but shall be entitled to enjoy such other privileges and advantages as the Governing Body shall by resolution from time to time determine. The conditions of eligibility to and tenure of Honorary Studentships, and the mode of election thereto, may also be determined by the Governing Body from time to time. Honorary Students shall not, in the construction of this Ordinance, be counted among the Students of the House, nor Honorary Studentships among the Studentships of the House.

XVIII.—The Junior Students.

Of the Fifty-two Junior Studentships, twenty-one shall be called Westminster Junior Studentships; the remaining thirty-one are herein-after referred to as Open Junior Studentships.

Of the Open Junior Studentships, there shall be seven called the Fell Studentships, two called the Bostock Studentships, and two called respectively the Vernon and the Boulter Studentships.

XIX.—*The Westminster Junior Students.*

The emoluments of the Westminster Junior Studentships shall be of such amount, not less than 115*l.*, nor more than 125*l.* each per annum, as the Governing Body shall determine. An annual sum of 1,260*l.* out of the income of the lands and tenements held under the Will of Dr. Matthew Lee, together with the emoluments of the Exhibitions of the foundations of Dr. South, Dr. Frewin, and Canon Hill, shall be applied towards the maintenance of these Studentships.

The Westminster Junior Studentships shall be filled up at Westminster School on the Wednesday in Rogation Week in each year, or on such other day as the Electors shall from time to time determine, by election from those boys on the Royal Foundation of the Collegiate Church of St. Peter, Westminster, who shall have been presented as Candidates by the Head Master of the said School. The electors shall be those persons who, under the Statutes of the said Collegiate Church of Westminster, would have been entitled to elect to Studentships on the old Foundation. The Candidates shall be examined in such subjects as shall have been previously selected by the Head Master, with the approval of the Dean of the said Collegiate Church, and in such

such manner as the electors shall determine; and those Candidates shall be elected whom, after such examination, the electors shall deem to be of the greatest merit, and who shall desire to proceed to Christ Church, and shall, in the judgment of the Dean of Christ Church or his duly appointed representative present at the election, be in all respects fit to be admitted Students of the House. Whenever there shall be no duly qualified Candidate for a Westminster Junior Studentship of sufficient merit for election in the judgment of the majority of the electors, and fit as aforesaid to be admitted a Student of the House, the election to such Studentship shall be postponed to the next annual election day; but if there shall then be no duly qualified Candidate of sufficient merit for election and fit as aforesaid, such Studentship shall be thrown open for that turn to general competition as an open Junior Studentship, and the election thereto shall be held at Christ Church by the same persons after public notice for the same time, and after an examination conducted in the same manner, as an ordinary election to an open Junior Studentship.

Each Westminster Junior Studentship shall be tenable until the Tuesday in Rogation Week in the seventh year from the day of election inclusive, and no longer. Any Junior Studentship which shall be filled up at Westminster School at an election postponed under the foregoing provisions shall be tenable until the Tuesday in Rogation Week in the sixth year from the day of election inclusive, and no longer. Any Westminster Junior Studentship which shall be thrown open to general competition shall be tenable until the expiration of the period for which it would have been tenable if the election thereto had not been postponed, and no longer. The Governing Body shall not be required to fill up in any one year more than three Westminster Junior Studentships (exclusive of any Studentship the election to which may have been postponed under the foregoing provisions).

XX.—*Open Junior Studentships.*

The emoluments of the open Junior Studentships shall be not less than 75*l.* each per annum, exclusive of rooms, but inclusive of all other allowances; and may be raised if the Governing Board shall deem it expedient, and have sufficient funds at command, to 100*l.* per annum, exclusive of rooms.

The election to open Junior Studentships, other than the Vernon Studentship, shall be held on a stated day or stated days in each year to be appointed by the Governing Body (subject to the provision for postponement herein-after contained); and notice of such intended election, and of the conditions of election, shall be given by the Dean, in such manner as he shall deem best adapted to ensure publicity, thirty days at least before the day of election. The Candidates shall be examined in such subjects and manner as the Governing Body shall determine; and that Candidate shall be elected who, after such examination, shall appear to the electors to be of the greatest merit and most fit to be a Student of the House; provided that in elections to one in every three open Junior Studentships the subjects of competitive examination shall be alternately Mathematics and Physical Science. On each vacancy occurring in the Vernon Studentship, the Patron of that Studentship shall be required to appoint an election thereto at the next ensuing election to open Junior Studentships. The Candidates shall be examined by such persons and in such manner as the Patron shall appoint; and that

Candidate shall be chosen who, after such examination, shall appear to the Patron to be of the greatest merit. If the Patron shall decline or neglect to appoint an election and examiners, thirty days' previous notice at least having been given to him by the Dean, the election to the Vernon Studentship shall be held for that turn by the same persons and in the same manner as to the other open Junior Studentships. No Candidate for the Vernon Studentship, or for any of the Studentships appropriated to the encouragement of Mathematics and Physical Science as aforesaid, shall be entitled to be admitted to a Studentship if in the judgment of the electors to open Junior Studentships he shall not be in all respects fit to be a Student of the House.

No person shall be admissible as a Candidate for any open Junior Studentship who shall have exceeded the age of nineteen years on the first day of January last preceding (except in the case of Physical Science Studentships), or who shall not have produced a certificate of baptism and testimonials of his moral character satisfactory to the Dean. Persons shall be admissible as Candidates for Physical Science Studentships who shall not have exceeded the age of twenty years on the first day of January last preceding.

Each open Junior Studentship shall be tenable for five years from the day of election, inclusive, and no longer.

Whenever there shall be no duly qualified Candidate for a vacant open Junior Studentship whom the electors or the Patron, as the case may be, shall judge of sufficient merit for election, and whenever an open Junior Studentship shall fall vacant, and there shall not be time to give the notice hereinbefore directed before the day of election, the election shall be postponed to some other day, to be fixed by the Governing Body, or the Patron, not later than the next ensuing stated day of election, to open Junior Studentships; and every such postponed election shall be held and conducted in the same manner, and after the same previous notice, as if there had been no postponement. In the case of any open Junior Studentship, the election to which shall have been postponed under the provisions of this Ordinance, the term of five years shall be computed from the day on which the election would have been held if there had been no postponement.

The Governing Body shall not be required to fill up more than six open Junior Studentships in any one year, so long as the whole number of open Junior Studentships shall be less than forty.

XXI.—*Discipline and Causes of Deprivation of Junior Students.*

Any Junior Student who shall marry, or be elected to a Senior Studentship, or to a place on the foundation of any other Collegiate Body within the University, shall thereby vacate his Studentship.

Any Junior Student may be deprived of his Studentship by the Governing Body for any misconduct which, in the judgment of the Governing Body, or the major part of them, shall merit deprivation.

Every Junior Student, and every Member of the House under the Degree of Master of Arts, shall be subject to such general regulations as to residence, discipline, and attendance on Divine Worship, as may be made from time to time by the Governing Body.

XXII.—The Visitor.

If in any case it shall appear to the Visitor that by reason of any change in the value of money or increase or diminution of the revenues of the House, any specific sum hereby fixed or which may be hereafter fixed, or any limitation of the amount of any stipend or emolument hereby fixed or which may hereafter be fixed, in exercise of any power hereby given, has become insufficient or excessive, and that such insufficiency or excess is productive of injustice or hardship, or is injurious to the general interests of the House, it shall be lawful for the Visitor, from time to time, for the purpose of correcting or obviating such injustice, hardship, or injury, to direct that such annual sum or limitation shall be increased or diminished as he shall think fit, and the increased or diminished sum or limitation shall thenceforth be substituted for and stand in the place of the sum originally fixed as aforesaid.

The Governing Body shall, as often as they may be required to do so, answer in writing touching any matter as to which the Visitor may deem it expedient to inquire, for the purpose of satisfying himself whether the Statutes in force for the time being are duly observed. The Dean and Chapter shall in like manner, and for the like purpose, be bound to answer any such inquiry as to themselves, the exercise of their Reserved Powers, and the persons and things under their control.

It shall be lawful for the Dean, or for any Canon or Senior Student, if he shall conceive himself aggrieved by any act, decision, or sentence of the Governing Body, and for any Chaplain who may deem himself aggrieved by any act or decision of the Dean or of the Dean and Chapter, and for any Junior Student or Exhibitioner who may have been deprived of his Studentship or Exhibition, to appeal against such act or decision or sentence to the Visitor; and it shall be lawful for the Visitor to adjudicate on such appeal, and to disallow or annul such act or decision, and to reverse or vary such sentence, as he shall deem just.

It shall be lawful for the Visitor, on the complaint of the Dean or of any member of the Governing Body, to disallow and annul any Bye-law which shall, in his judgment, be repugnant to any of the Statutes of the House in force for the time being.

As often as any question shall arise on which the Members of the Governing Body shall be unable to agree, depending wholly or in part on the construction of a Statute of the House, it shall be lawful for the Governing Body, or any three of them, to submit the same to the Visitor, and the Visitor may thereupon declare what is the true construction of such Statute with reference to the case submitted to him. Any like question which may arise between the Governing Body and the Dean and Chapter may be in like manner submitted to the Visitor by the Governing Body or the Dean and Chapter.

XXIII.—Power to Alter or Repeal.

It shall be lawful for Her Majesty in Council, upon the application of the Governing Body of the House, such application having been agreed to at a stated General Meeting by a majority of not less than two-thirds of the votes of those present, from time to time to repeal or to alter any clause or provision herein contained, or to add new clauses or provisions: Provided that no such repeal, alteration, or addition shall extend to or affect such of the

provisions herein contained as reserve any special rights or powers to the Dean and Chapter: Provided also, that notice of every proposal to apply to Her Majesty for any such repeal, alteration, or addition shall have been given at the stated General Meeting next preceding that at which such proposal may be adopted.

MISCELLANEOUS.

XXIV.—*Holford Exhibitions.*

The two consolidated Holford Exhibitions shall respectively be tenable for five years from the day of election inclusive, and no longer. The Exhibitioners shall be elected, after a competitive examination of the Candidates, from among persons educated at the Charterhouse School for two years at least last preceding the day of election, or last preceding their matriculation in the University. No person shall be entitled to preference by reason of his being an Exhibitioner or Pensioner of Sutton's Hospital. No person shall be admissible as a Candidate who shall have completed the fourth Term inclusive from the date of his matriculation. The Dean shall give thirty days' notice at least of every intended election to the Head Master of the Charterhouse School, and shall also give public notice thereof for the same period. Whenever there shall be no Candidate whom the electors shall judge of sufficient merit for election, the Exhibition shall be thrown open for that turn to general competition, and the election shall be postponed to a day to be appointed by the electors, not later than the next ensuing stated day of election to open Junior Studentships. It shall be lawful for the Governing Body, with the consent of the Governors of the Charterhouse, to increase the number of the Exhibitions, if there shall be sufficient funds for that purpose, but so that the emoluments of each Exhibition shall not fall short of 60*l.* per annum.

XXV.—*Exhibitions for Commoners.*

The Governing Body may create Exhibitions for Commoners of the House out of the moneys left for that purpose by Bishop Fell, Archbishop Boulter, and Mrs. Bostock, when those moneys shall have ceased to be required for the temporary purpose of establishing Open Junior Studentships.

XXVI.—*Bishop Wood's Estate.*

No clause or provision herein contained shall extend to or include the estate held under the Will of Bishop Wood for the benefit of the Senior Masters of the House, being Students, or any payments or allowances which may be made thereout pursuant to the said Will, except that holders of Senior Studentships shall, and holders of Junior Studentships shall not, be deemed Students of the House within the meaning of the said Will.

XXVII.—*Room-rents.*

No Student of the House, not being actually resident, shall be entitled to receive any room-rent in respect of his rooms within the House.

XXVIII.—*Certain distinctions abolished.*

There shall be no distinctions in respect of Academical dress, designation, College charges, or College payments, among Undergraduate Members of the House, not being Junior Students nor Exhibitioners within the House.

XXIX.—Temporary Provisions.

The Canonry now existing, not attached either to a Professorship or to the Archdeaconry of Oxford, shall not be filled up when it shall become vacant, and the portion of the Chapter Fund devoted to the support of this Canonry shall thereafter be at the disposal of the Governing Body. Meanwhile, the House or Collegiate Foundation shall be deemed to consist of the Dean and Seven Canons, and other Members as provided in Clause I.

Studentships of the old Foundation, when they become vacant, are not to be filled up.

The whole number of the said twenty-eight Senior and fifty-two Junior Studentships shall be completed as speedily as the amount of the funds gradually becoming available will permit. The relative rate at which the whole number of Senior and Junior Studentships shall be established shall be in the discretion of the Governing Body; provided that three Westminster Junior Studentships shall be established in every year in which the Governing Body shall have in their hands sufficient means for the purpose; and it shall be lawful for the Governing Body, in order to enable themselves to establish such three Studentships yearly, to apply to that purpose from time to time, and so long as it may be necessary, in addition to the sum of 1,260*l.* above specified, any portion of the income of the estates and funds held under the Will of Dr. M. Lee which shall not be required for carrying into effect the provisions of this Ordinance and the other regulations for the time being in force respecting the application of the said income.

The emoluments of Westminster Junior Studentships may, at the first establishment thereof, be 75*l.* each per annum, exclusive of rooms; but they shall be raised, with all convenient speed, to the minimum amount, hereinbefore fixed, of 115*l.* per annum, exclusive of rooms.

One Lay Senior Studentship shall be established for every two Clerical Studentships until the whole number of nine Lay Studentships shall be completed.

The emoluments of the Exhibitions of the Foundations of Bishop Fell, of Archbishop Boulter, for Commoners, and of Mrs. Bostock, may be applied towards the maintenance of the open Junior Studentships, so long as it may be necessary; but, so soon as the funds necessary for the endowment of those Studentships shall have been provided from other sources, the Governing Body may create Exhibitions for Commoners of the House out of the moneys left by Bishop Fell, Archbishop Boulter, and Mrs. Bostock, for that purpose.

The power of appointing a Censor Theologiæ herein-before given to the Dean shall not be exercised until after the next vacancy in the office of Sub-Dean.

The Governing Body may, if they think fit, increase the emoluments of any Student on the Old Foundation who shall be a College-officer, Tutor, Reader,

or Lecturer, within the House, to an amount not exceeding 300*l.* per annum, exclusive of rooms, but inclusive of all other allowances.

Nothing contained in the above provisions shall be taken to interfere with any of the emoluments heretofore enjoyed by Students on the Old Foundation.

The limitations of age above specified (Clause XX.) shall not apply to Candidates for Junior Studentships who may have matriculated before the 24th day of March 1866. Of such persons no one shall be admissible as a Candidate who on the day of election will have completed the eighth Term inclusive from the date of his matriculation. And the prohibition of distinctions in respect of dress, precedence, payments, and charges shall not apply to Undergraduate Members of the House who shall before that time have been admitted to residence.

C. T. CANTUAR.
J. T. COLERIDGE.
W. P. WOOD.
ROUNDELL PALMER.
EDWARD TWISLETON.

Christ Church (Oxford) Ordinances.

A

B I L L

To repeal certain Ordinances made for the Cathedral or House of Christ Church, in Oxford, by the Commissioners appointed under the Oxford University Act, 1854, and to substitute a new Ordinance in lieu thereof.

(Prepared and brought in by Sir Roundell Palmer, Mr. Chichester Fortescue, and Mr. William Henry Gladstone.)

Ordered, by The House of Commons, *to be Printed,* 6 *June* 1867.

[Bill 190.]

Under 3 *oz.*

A

B I L L

TO

Repeal so much of the Act of the Third and Fourth Years of Victoria, Chapter Eighty-six, commonly called "The Church Discipline Act," as deprives the Laity of the Power of prosecuting the Clergy for Offences against the Ecclesiastical Discipline of the Church of England.

WHEREAS the Introduction of novel Ornaments into the Churches and of unaccustomed Usages into the Services of the Church of England has led to much Controversy and Litigation, and it has been decided to be unlawful to set up a Stone Structure or a fixed Table for a Communion Table in the Place of a moveable Table of Wood, or to place upon or attach to or near the Communion Table a Ledge or Super-Altar, a Cross, or to use embroidered Linen or Lace on the Communion Table at the Time of the Ministration of the Holy Communion: Preamble.

And whereas, notwithstanding such Adjudication, the Ornaments and Usages so condemned are in many Cases still continued, or the Law evaded by a Cross being cut into the Stone, or placed on a Ledge in the Wall close to and over the Communion Table, so as to appear standing thereon, in consequence of the Expense and Delay incident

to Proceedings in the Ecclesiastical Courts, and it is desirable more effectual Means should be given for removing such illegal Ornaments and suppressing such unauthorized Usages :

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Power to Churchwardens where there are extraordinary Ornaments in Churches to remove same.

1. In every Case in which there shall be erected or set up within a Church or Chapel consecrated or licensed for the Performance of Religious Services according to the United Church of England and Ireland any Rails or Screens to exclude the Laity from the Chancel, or in which there shall be set up any Structure of Wood or other Material so placed as to resemble an Altar or Altar Tomb, or which shall be covered with various coloured Altar Cloths changed at various Seasons, with Monograms or Crosses worked thereon, instead of the fair White Linen Cloth at the Time of Communion, or the Carpet or other decent Stuff when there is no Communion, as prescribed by the Rubrick of the Book of Common Prayer, or in which there shall be placed on or near any Communion Table or imitative Altar, Altar Lights, Flowers, natural or artificial, Crosses or Crucifixes, or on any other Part of the Church Stained Glass Windows, with Figures, Images, Paintings, or Representations of any Kind whatever of either or all of the Persons of the Trinity, or in which there shall be any Piscina or Holy Water Receptacle, it shall be the Duty of the Churchwardens of such Church or Chapel to remove the same, and any One of such Churchwardens may remove such Ornaments, and if not claimed by any Donor within One Month of such Removal may sell the same, and apply the Proceeds in aid of the Alms for the Poor or any Offertory the Churchwarden pleases collected within such Church or Chapel.

Churchwardens to report to Bishop when Processions of Clergy with Banners, &c. in use in Churches, who shall thereupon forbid same.

2. In every Case in which, within any Church or Chapel so consecrated or licensed, there shall, immediately before, during, or after the Performance of Divine Worship, be used, either in the Church or Grounds adjoining thereto, any Procession of Clergy or others bearing Banners or Crosses, either in their Hands or upon their Vestments, or any Bishop bearing a Crozier or having it borne, or any Incense Bearers, or any Clergyman using any other Garment, Covering, or Ornament than the Surplice and Hood as prescribed, and of the customary Shape, or, while preaching, the Black Gown and Bands, as has been the Custom, or who shall turn his Back to the Congregation, and remain so, standing and kneeling, at the Communion Table, or making Obeisances to the same, either in going to, while there, or returning therefrom, in counterfeit of the Romish Mass, or when in the Pulpit shall turn his Back to the Congregation, and address himself to the Communion Table, or during the saying of the Creeds, it shall be the

Duty

Duty of the Churchwardens to report the same to the Bishop; and the Bishop shall thereupon, by Writing under his Hand, forbid such Usage; and if after such Prohibition the Officiating Minister shall continue such Usage he shall be ipso facto suspended, and the Bishop may issue a Sequestration, and provide for the Duties of such Church or Chapel, as in the Case of a Vacancy, until the Officiating Minister or Incumbent of such Church or Chapel shall submit himself, and engage to conduct Divine Worship without repeating the Usage so condemned.

Meeting of Parishioners to be convened, and their Opinion taken as to Use of such Ornaments, &c.

3. It shall be lawful for any Six Ratepayers within the Parish or District belonging to any Church or Chapel so consecrated or licensed as aforesaid to require the Churchwardens to convene a General Meeting of Parishioners, and in the event of the Refusal of the Churchwardens so to do, or their failing to convene such Meeting within Three Days from the Receipt of such Requisition, the Requisitionists may themselves convene a public Meeting of Parishioners, and such public Meeting shall choose its own Chairman, and Votes shall be taken as is usual in Parochial Meetings; and if by a Resolution of such Meeting the Churchwardens shall be required to remove such illegal Ornaments, or report such unauthorized Usages as aforesaid, and shall fail to do so within Ten Days from the Presentation of such Resolution, it shall be lawful for the Chairman of such Meeting to remove such illegal Ornaments, and to report to the Bishop such unauthorized Usages; and the Bishop shall thereupon proceed as if such Report were made by the Churchwarden as aforesaid: And whereas certain Clergymen of the Church of England have adopted the Practice of refusing to allow Persons to partake of the Lord's Supper in accordance with the Communion Service until such Persons have first made private Confession to such Clergymen, and have by various servile Pretences set up as a Part of the Ritual Service of the Church of England the System of auricular Confession as a Duty imposed on the Members of such Church, contrary to the true Intent and Meaning of the Book of Common Prayer and the Rubric and Discipline of the said Church: Be it enacted, That if any such Case shall come to the Knowledge of any Churchwarden it shall be his Duty to inform the Bishop of the Diocese of the Facts; and in default of the Churchwarden informing, the said Bishop shall forthwith take such Action thereon as is herein-before provided in respect of other Deviations from the Service of the Church as herein-before mentioned, and the Provision herein-before contained shall be applicable to all such Cases as though the same were herein repeated.

Church Discipline Act Amendment.

A

B I L L

To repeal so much of the Act of the Third and Fourth Years of Victoria, Chapter Eighty-six, commonly called "The Church Discipline Act," as deprives the Laity of the Power of prosecuting the Clergy for Offences against the Ecclesiastical Discipline of the Church of England.

(*Prepared and brought in by Mr. Whalley and Mr. Kennard.*)

Ordered, by The House of Commons, *to be Printed*, 12 *April* 1867.

[Bill 124.]

Under 1 *oz.*

A

BILL

FOR

The Abolition of Church Rates.

WHEREAS Church Rates have for some Years ceased to be made or collected in many Parishes by reason of the Opposition thereto, and in many other Parishes where Church Rates have been made the levying thereof has given rise to Litigation and Ill-feeling: And whereas it is expedient that the Power to make Church Rates should be abolished: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

1. From and after the *passing of this Act* no Church Rate shall be made or levied in any Parish in England or Wales. Church Rates abolished.

2. Provided always, That in any Parish where a Sum of Money is at the Time of the *passing of this Act* due on the Security of Church Rates to be made or levied in such Parish under the Provisions of any Act of Parliament, such Rates may still be made and levied pursuant to such Provisions for the Purpose of paying off the Money so due, but not otherwise, until the same shall have been liquidated. Saving where Money due on Security of such Rates.

3. Any

Church Rate already made may be recovered.

3. Any Church Rate made at any Time before the *passing of this Act* may be collected and recovered in the same Way as if this Act had not been passed.

Short Title.

4. This Act may be cited as "The Church Rate Abolition Act, 1867."

Church Rates Abolition.

A

BILL

For the Abolition of Church Rates.

(*Prepared and brought in by*
Mr. Hardcastle, Mr. Baines, and Mr. Trevelyan.)

Ordered, by The House of Commons, *to be Printed,*
12 *February* 1867.

[Bill 13.]

Under 1 *oz.*

Church Rates Commutation Bill.

ARRANGEMENT OF CLAUSES.

CLAUSES.

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10. Memorial of Parish for Revocation of Exemption, and Order of Quarter Sessions thereon.

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11. Case where Parts of Parish within Jurisdiction of different Quarter Sessions.

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18. Precepts for Church Charge along with County or Borough Rate.
19. Precepts separately if no County or Borough Rate made.
20. Provisions respecting County and Borough Rates applied to Church Charge.
21. Separate Acknowledgment for Church Charge.
22. Deduction by Tenant of Church Charge from his Rent.

Administration of Church Charge.

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24. Committee of Queen Anne's Bounty.
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26. Churchwardens to draw on Queen Anne's Bounty.
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33. Power to Owner of Property to obtain Discharge thereof from Church Charge by Payment of Capital Value of Church Charge thereon or by Grant of Redemption Rentcharge.
34. Proceedings for obtaining Discharge where Property is in Settlement. 19 & 20 Vict. c. 120.; 21 & 22 Vict. c. 77.
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CLAUSES.

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37. Release of Redemption Rentcharge where Land charged is in Settlement.

Benefactions for Relief of Parish from Church Charge.

38. Power to any Person to grant or devise Property for Relief of Parish, under Restrictions. [*See* 2 *&* 3 *Ann. c.* 11. *s.* 4.; 43 *Geo.* 3. *cc.* 107, 108.]

39. Power for Trustees for Relief of Parish to transfer Property to Incumbent and Churchwardens.

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40. Award of Governors of Queen Anne's Bounty for Discontinuance of Church Charge.

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42. Forms in Schedule.

Saving for Local Acts.

43. Regulations as to particular Parish to remain. [*See last Proviso in* 53 *Geo.* 3. *c.* 127. *s.* 7.]

General Savings.

44. Pending Proceedings, and Cases where Money borrowed on Security of Church Rates.

SCHEDULE.

A

BILL

FOR

The Commutation of Church Rates.

WHEREAS it is expedient that an annual Charge on Property be levied in lieu of Church Rates, and that Provision be made for the Commutation of such Charge, and for the Reception, holding in trust, and due Application of Benefactions and voluntary Contributions for the Purposes of Church Rates, and instead thereof: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lord Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

1. This Act may be cited as the The Church Rates Commutation Act, 1867. Short Title

2. This Act shall not extend to Scotland or Ireland. Extent.

3. In this Act—

The Term "Parish" means any Place or District for which a separate Church Rate might have been made if this Act had not Interpretation.

not been passed, whether a Parish, District Parish, Ecclesiastical District, or other Ecclesiastical Division:

The Term "the Quarter Sessions" means such Court of General or Quarter Sessions as has Jurisdiction over the Parish or Part of the Parish affected by any Provision of this Act in which that Term is used:

The Terms "Clerk of the Peace" and "Town Clerk" respectively include any Officer or Person who discharges the Duties of Clerk of the Peace or Town Clerk where there is no such Officer as Clerk of the Peace or Town Clerk, and mean the Clerk of the Peace, Town Clerk, or other such Officer or Person as aforesaid of or acting for the County, Borough, or Place for which the Quarter Sessions are held:

The Terms "Church" and "Churchwarden" include Chapel and Chapelwarden:

The Term "Owner of Property," with respect to Land, means the Person who is for the Time being entitled to receive the Rackrent of the Land from the Occupier thereof, or who, if the Land were let to a Tenant at Rackrent, would for the Time being be entitled to the Receipt of the Rackrent:

The Term "Ratepayer" means a Person assessed to Rates for Relief of the Poor.

Mode of publishing Notices by Churchwardens.

4. Where Churchwardens are required by this Act to publish any Notice, Account, or other Thing, they shall fix the same, in Writing or Print, or partly in Writing and partly in Print, under their Hands, on or near the principal Door of the Church of the Parish, and shall keep the same so fixed for *One Month*, and also shall advertise the same once at least during such *Month* in some Newspaper printed in the County in which the Parish is situate, and if there is none, then in an adjoining County.

Mode of making special Order of Vestry.

5. A Special Order made by a Vestry under this Act shall be made as follows:—The Churchwardens shall publish a Notice of the intended Meeting of the Vestry and of the Object thereof; the Resolution of the Vestry agreed to at such Meeting shall be confirmed at a subsequent Meeting held not sooner than *One Month* and not later than *Two Months* thereafter; the Churchwardens shall publish a Notice of such intended subsequent Meeting, and of the Object thereof, and shall (in addition to any such Advertisement as aforesaid) advertise such Notice, once at least in each *Fortnight* intervening between the Two Meetings, in some such Newspaper as aforesaid.

Cessation

Cessation of Church Rates.

6. No Church Rate shall be made after the *Thirty-first Day of December One thousand eight hundred and sixty-eight.* Church Rates to cease.

Establishment of Church Charge.

7. From and after the *Thirty-first Day of December One thousand eight hundred and sixty-eight*, all Property in respect of the Occupation whereof the Occupier would, if this Act had not been passed, have been by Law liable to be assessed to Church Rates, shall (except as in this Act otherwise provided) be subject to an annual Charge after the Rate of not less than *One Penny* and not more than *Twopence* for every Pound Sterling of the annual rateable Value thereof, according to the Valuation of Property for the Purpose of Rates for Relief of the Poor, the Rate of the Church Charge in each Parish to be determined by Special Order of the Vestry, and such Rate to be unalterable when so determined, until the Charge is fully commuted or is discontinued under the Provisions of this Act. Church Charge in lieu of Church Rates.

Such Charge shall be called the Church Charge, and shall be in substitution for Church Rates, and shall be levied as in this Act provided, and shall be applicable for the Purposes for which Church Rates are by Law applicable.

Exemption of a Parish from Church Charge.

8. Nothing in this Act shall authorize the assessing or levying of the Church Charge in any Parish where Church Rate is not at the passing of this Act by Law leviable; and, notwithstanding anything in this Act, the Church Charge shall not be assessed or levied in any Parish so long as an Order of Exemption made as provided by this Act is in force for such Parish. No Church Charge where Church Rate not leviable, or where Order of Exemption.

9. If at any Time within *Six Months* after the Expiration of *One Year* from the passing of this Act a Declaration is delivered to the Churchwardens of any Parish, signed by not less than *Ten* Ratepayers of the Parish or by not less than *One Fifth* in Number of the Ratepayers (if *One Fifth* is less than *Ten*), stating either that no Church Rate was made and levied in the Parish within the *Seven* Years ending the *Thirty-first Day of December One thousand eight hundred and sixty-six*, or that *Three* successive Times within those *Seven* Years a Proposal for the making of a Church Rate in the Parish was rejected on a Poll duly taken, and that they desire to claim for the Parish Exemption from the Church Charge, the following Provisions shall have Effect: Order of Exemption by Quarter Sessions, on Application of Parish.

(1.) The Vestry may by Special Order authorize an Application to the Quarter Sessions for an Order of Exemption:

(2.) The Churchwardens shall, within *One Month* after the Completion of the Special Order, send a certified Copy thereof to the Clerk of the Peace, who shall lay the same before the next Quarter Sessions held not sooner than *Two Months* after the Completion of the Special Order, of the Time of the holding whereof the Churchwardens shall publish Notice:

(3.) At such Sessions any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appear and apply for an Order exempting the Parish from Liability to the Church Charge, which Order the Court shall make, on Proof being given of no Church Rate having been made and levied within such *Seven* Years, or of such *Three* successive Rejections as aforesaid:

(4.) Any such Owner or Ratepayer may appear and oppose the Application for such Order.

Revocation of Exemption.

Memorial of Parish for Revocation of Exemption, and Order of Quarter Sessions thereon.

10. If at any Time after the making of such an Order of Exemption for any Parish a Declaration is delivered to the Churchwardens of the Parish, signed by not less than *One Fourth* in Number of the Ratepayers of the Parish, stating that they desire to obtain the Revocation of such Order, the following Provisions shall have Effect:

(1.) The Vestry may by Special Order adopt a Memorial to the Quarter Sessions for the Revocation of such Order:

(2.) If within *Fourteen Days* after such Adoption of a Memorial the same is signed by not less than *Three Fourths* in Number of the Ratepayers of the Parish, then, but not otherwise, the Churchwardens shall forthwith send the same to the Clerk of the Peace, who shall lay the same before the next Quarter Sessions held not sooner than *Two Months* after the Receipt thereof by him, of the Time of the holding whereof the Churchwardens shall publish Notice:

(3.) At such Sessions any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appear and apply for an Order revoking the Order of Exemption, which Order of Revocation the Quarter Sessions shall make, on Proof of the Memorial having been duly adopted and signed as aforesaid:

(4.) Any such Owner or Ratepayer may appear and oppose the Application for such Order.

Parish

Parish partly in County and partly in Borough.

Case where Parts of Parish within Jurisdiction of different Quarter Sessions.

11. Where different Courts of Quarter Sessions have Jurisdiction within different Parts of the same Parish, that Court which has Jurisdiction over such Part of the Parish as contains the larger Number of the Ratepayers of the Parish shall, for the Purposes of any such Order of Exemption or of Revocation, have exclusive Jurisdiction over the whole Parish.

Assessment of Church Charge.

Churchwardens to publish Schedule of Assessment of Church Charge.

12. Forthwith after the Expiration of *One Year* from the passing of this Act, the Churchwardens of every Parish (except Parishes wherein by virtue of the Provisions of this Act the Church Charge is not assessable or leviable) shall proceed to make out a Schedule showing all the Property subject to the Church Charge for the Parish, the Names of all Persons liable to pay the same, the Amount for which each is liable, and the aggregate Amount of the Church total for the Parish.

Time for Completion.

13. The Churchwardens shall complete such Schedule within *Three Months* after the Expiration of *One Year* from the passing of this Act, and forthwith on Completion thereof shall publish it, with a Notice stating that any Person dissatisfied with the Assessment therein contained may appeal against the same as an Appeal may be made against a Rate for Relief of the Poor.

Similar Schedule to be made yearly.

14. The Churchwardens in every Parish (except as aforesaid) shall in every subsequent Year on or before the *First Day of November* make out a like Schedule, and publish it with a like Notice.

Penalty on wilful Omission, &c. by Churchwarden.

15. If any Churchwarden wilfully omits to include any Property or Person in any such Schedule, or if any Churchwarden makes in any such Schedule a Statement of anything by this Act required to be stated therein, knowing the Statement to be false in any material Particular, he shall for every such Offence, on summary Conviction before Two or more Justices of the Peace, be liable to a Penalty not exceeding *Ten Pounds*.

Appeal as in case of Poor Rate.

16. All statutory and other Provisions and Rules concerning an Appeal against a Rate for Relief of the Poor, and the affirming, quashing, or amending thereof, shall extend and apply, mutatis mutandis, to the Church Charge, and to an Appeal against the same, and the affirming, quashing, or amending thereof.

Schedule to be sent to Clerk of the

17. The Churchwardens of each Parish shall deliver the Schedule for the Parish to the Clerk of the Justices of the Petty Sessional

Peace or Town Clerk.

Division within which the Parish is, who shall within *Fourteen Days* after any Appeal is disposed of in Special Sessions, or after the Time allowed for Appeal is expired, send the Schedule (with any Amendment made therein on Appeal to Special Sessions) to the proper Clerk of the Peace or Town Clerk.

Collection of Church Charge.

Precepts for Church Charge along with County or Borough Rate.

18. Where, after *the Thirty-first Day of March One thousand eight hundred and sixty-nine*, a County Rate, or Rate in the Nature of a County Rate, or a Borough Rate, is made for the First Time in any Year, the Precepts, Warrants, or other Instruments issued for the Collection thereof shall also comprise and direct the Collection of the Church Charge in the several Parishes subject to the Rate (except Parishes wherein by virtue of the Provisions of this Act the Church Charge is not leviable), and according to the Assessments made for the several Parishes in manner aforesaid for which Purpose the Schedules made under this Act for the several Parishes shall be delivered together with such Precepts, Warrants, or other Instruments.

Precepts separately if no County or Borough Rate made.

19. If in any Case such a Rate as aforesaid is not made before the *Thirtieth Day of June* in any Year, then on or before the *Twenty-first Day of July* in that Year Precepts, Warrants, or other proper Instruments shall be issued for the Collection of the Church Charge alone, the Schedules aforesaid being delivered therewith respectively.

Provisions respecting County and Borough Rates applied to Church Charge.

20. All statutory and other Provisions and Rules concerning the Powers, Rights, Duties, Protection, and Liabilities of Guardians of Unions, Overseers of the Poor, County Treasurers, Treasurers of Boroughs, Justices of the Peace, and other Authorities and Persons, in relation to County Rates, Rates in the Nature of County Rates, and Borough Rates respectively, and the Collection, Payment, and Receipt thereof, and the Remedies for recovering or enforcing Payment of the same, shall extend and apply, mutatis mutandis, to the Church Charge, and the Collection, Payment, and Receipt thereof, and the Remedies for recovering or enforcing Payment of the same.

Separate Acknowledgment for Church Charge.

21. A separate Acknowledgment of the Payment of the Church Charge shall in each Case be given.

Deduction by Tenant of Church Charge from his Rent.

22. The Occupier of any Property, being Tenant thereof, and not being liable, as between himself and his Landlord, by virtue of any Deed or Writing, made or to be made, to pay Church Rates or

or the Church Charge, either specifically, or as included in the general Description of Rates and Taxes, or otherwise, shall be entitled, if he thinks fit, to deduct any Sum paid by him for the Church Charge out of his next following Payment of Rent, and the Receivers of Her Majesty, and all Landlords, their Receivers, Agents, Representatives, and Assigns, shall allow that Deduction, if claimed, on Receipt of the Residue of the Rent, and the Tenant paying any Sum for Church Charge, and claiming such Deduction, shall be discharged of the Amount so paid and claimed to be deducted, as if the same had been actually paid to the Person entitled to receive his Rent.

Administration of Church Charge.

Administration by Governors of Queen Anne's Bounty.

23. The Administration of Money received for the Church Charge shall be conducted by the Governors of Queen Anne's Bounty as in this Act provided.

A Meeting of the Governors of Queen Anne's Bounty shall not be competent to act for any of the Purposes of this Act unless there are present at least *Two* Lay Governors,—or to hear and determine any Appeal or Objection under this Act unless there are present at least *Two* of the following Persons,—nor shall any General Rules made by the Governors under this Act be valid unless they are made under the Hands of at least *Seven* of the Governors, including at least *Three* of the following Persons, namely,—the Speaker of the House of Commons, a Member of the Judicial Committee of Her Majesty's Privy Council, the Lord Chief Justice, Lord Chief Baron, or other Judge of One of the Superior Courts of Law at Westminster, the Master of the Rolls, Her Majesty's Attorney, Solicitor, or Advocate General, or One of Her Majesty's Counsel learned in the Law.

Committee of Queen Anne's Bounty.

24. The Governors of Queen Anne's Bounty shall from Time to Time appoint for the Purposes of this Act a standing Committee (to be called The Church Charge Committee) to perform such of the Duties imposed on the Governors by this Act as are from Time to Time referred to the Committee by or according to any General Rules made under this Act.

The Committee shall consist of *Twelve* Governors, of whom at least *Six* shall be Laymen; and *Five* Members of the Committee, including at least *Three* Laymen, shall be a Quorum; and the Proceedings of the Committee shall be regulated by General Rules made under this Act.

County and Borough Treasurer to send Money received to

25. Every County Treasurer or Treasurer of a Borough, on Receipt of the Money collected for Church Charge, shall within *Fourteen Days* thereafter transmit the same to the Governor's of Queen

Queen Anne's Bounty.

Queen Anne's Bounty, distinguishing the Parishes for which it has been received, and the Sum received for each Parish.

The Governors shall on Receipt thereof place the Proportions thereof received for the several Parishes to the Credit of separate Accounts to be opened and kept by them with the Churchwardens, and shall within *Fourteen Days* give Notice in Writing of such Receipt to the respective Churchwardens.

Churchwardens to draw on Queen Anne's Bounty.

26. The Churchwardens of each Parish may from Time to Time draw on the Governors of Queen Anne's Bounty (their Signatures to their Draft being in each Instance attested by a Justice of the Peace having Jurisdiction in the Parish) for the Amount (not exceeding the Sum standing to their Credit in the Books of the Governors) from Time to Time required in the Parish for the Purposes for which the Church Charge is applicable, and the Governors shall remit that Amount to the Churchwardens:

Provided that the Governors shall not in any Year remit to the Churchwardens of any Parish a Sum or Sums exceeding the Amount of the then last Year's Produce of the Church Charge for the Parish, except on a Resolution of the Vestry of the Parish authorizing the Churchwardens to draw for a Sum or Sums exceeding that Amount.

Annual Accounts of Churchwardens.

27. The Churchwardens of each Parish shall annually lay before the Vestry of the Parish an Account in Abstract of their Receipts and Payments for the past Year in respect of the Church Charge, having first published the same.

Regulation of Expenditure of Parish.

28. Where the Churchwardens of a Parish propose to expend any Money for Purposes for which the Church Charge is applicable, the following Provisions shall have Effect:

(1.) The Churchwardens shall publish and lay before the Vestry an Account showing for the Year then last past the Amount received by the Governors of Queen Anne's Bounty in respect of the Church Charge for the Parish, and the Amount thereof drawn by the Churchwardens, and the Expenditure of that Amount, and a Statement of the Amount and Objects of the proposed Expenditure:

(2.) The Vestry may by Resolution authorize the proposed Expenditure:

(3.) Within *Fourteen Days* after the Meeting at which that Resolution is agreed to, any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may appeal against the proposed Expenditure or any Part thereof to the Governors of Queen Anne's Bounty, stating

stating in Writing the Grounds of his Appeal, and giving Notice thereof in Writing to the Churchwardens:

(4.) The Governors shall, within *Two Months* after receiving the Appeal, hear and determine the same, stating in Writing their Approval or Disapproval of the proposed Expenditure or any Part thereof (with, in case of Disapproval, the Grounds thereof), and shall deliver or send the Statement to the Appellant, and a certified Copy thereof to the Churchwardens:

(5.) The Churchwardens shall not proceed with the proposed Expenditure or the Part thereof appealed against, pending the Appeal, or after any such Disapproval.

Investments by Queen Anne's Bounty for Benefit of Parish.

29. As often as there is standing for *Two Months* to the Credit of the Churchwardens of a Parish in the Books of the Governors of Queen Anne's Bounty a Sum of Money exceeding *Fifty Pounds*, the Governors shall, at the End of that Period of *Two Months*, invest that Sum in their own Names in some of the Public Stocks or Funds, for the Benefit of the Parish, and shall place the Income from that Investment to the Credit of the Churchwardens.

That Income and the Proceeds of any Sale from Time to Time made of any Part of those Stocks or Funds (which Sale the Governors may from Time to Time make as Occasion requires) shall be dealt with in like Manner as the Money received by the Governors on account of the Church Charge for the Parish.

Accounts of Queen Anne's Bounty to be sent to Parishes.

30. The Governors of Queen Anne's Bounty shall from Time to Time send to all Churchwardens Statements of their respective Accounts, in such Rotation that the Churchwardens of each Parish will receive such a Statement not less than once in every *Five Years*.

The Churchwardens of each Parish shall, as soon as may be, lay the Statement before the Vestry, having first published it.

Rules and Arrangements of Queen Anne's Bounty.

31. The Governors of Queen Anne's Bounty shall from Time to Time, in accordance with the Recommendations of the Church Charge Committee, make General Rules for the Execution of the Duties imposed on them by this Act, and, subject and according to such Rules,—

(1.) Shall appoint Officers and Clerks, and provide Offices and Things, necessary or proper for the Execution of those Duties:

(2.) Shall invest in their own Names in some of the Public Stocks or Funds Money coming to their Hands under this Act and not required either for immediate Use or

for Investment for the Benefit of any particular Parish, and proper to be so invested:

(3.) Shall apply the Income to arise from such last-mentioned Investments in or towards defraying the Expenses incurred by them in the Execution of this Act:

(4.) Shall, if such last-mentioned Income is insufficient for that Purpose, defray those Expenses out of Money coming to their Hands for the Church Charge in such Manner that those Expenses may be borne by the several Parishes in such Proportions as to the Governors appear just.

Incorporation of Incumbent and Churchwardens.

Incumbent and Churchwardens to be a Corporation for Purposes of this Act.

32. In every Parish the Incumbent and Churchwardens for the Time being shall be and are hereby, for the Purposes of this Act only, incorporated by the Name of The Incumbent and Churchwardens of the Parish of , and by that Name shall be One Body Corporate, with perpetual Succession and a Common Seal, and with Power to take, hold, and dispose of Land and other Property for the Purposes and according to the Provisions of this Act.

Discharge of particular Property from Church Charge.

Power to Owner of Property to obtain Discharge thereof from Church Charge by Payment of Capital Value of Church Charge thereon or by Grant of Redemption Rentcharge.

33. Any Person having any Estate or Interest in any Property liable to the Church Charge in any Parish may obtain the Discharge of the Property from that Liability in manner following:

(1.) He may pay to the Governors of Queen Anne's Bounty a Sum of Money equal to the Capital Value of the Church Charge on the Property, estimated at *Twenty-seven Years* Purchase of the gross annual Amount of the Church Charge at the Time of Payment, such Sum to be placed by the Governors to the Credit of the Churchwardens of the Parish; or

(2.) He may grant to the Incumbent and Churchwardens of the Parish a perpetual yearly Rentcharge (to which the Term Redemption Rentcharge, where hereafter used in this Act, refers), to be issuing out of Land of Freehold Tenure, equal to the gross annual Amount at the Time of the Grant of the Church Charge on the Property intended to be discharged, securing the Rentcharge to the Satisfaction of the Governors of Queen Anne's Bounty:

(3.) The Governors, on Receipt of such Money, or on such Rentcharge being secured to their Satisfaction, as the Case may be, shall give to the Person making such Payment or Grant a Certificate under their Common Seal, stating the Fact of such Payment or Grant, and specifying

specifying the Property for the Discharge whereof it is made, and shall send a certified Copy of the Certificate to the Churchwardens of the Parish:

Every such Certificate shall, from a Time to be therein stated, effectually discharge the Property therein comprised from Liability to the Church Charge.

Proceedings for obtaining Discharge where Property is in Settlement. 19 & 20 Vict. c. 120. 21 & 22 Vict. c. 77.

34. Where any Property liable to the Church Charge in any Parish is a settled Estate within the Operation of the Settled Estates Act (that is to say, the Act of the Session of the Nineteenth and Twentieth Years of Her Majesty's Reign, Chapter One hundred and Twenty), the Discharge of the Property from that Liability may be obtained in manner following:

(1.) The Court of Chancery, if the Court deems it proper and consistent with a due Regard to the Interests of all Parties entitled under the Settlement of the Estate, may authorize the granting to the Incumbent and Churchwardens of the Parish of such a perpetual yearly Redemption Rentcharge as aforesaid, to be issuing out of Land of Freehold Tenure forming Part of the Settled Estate, or out of Land of Freehold Tenure subject to the same Limitations as the Settled Estate, and to be secured to the Satisfaction of the Governors of Queen Anne's Bounty in such Manner as the Court approves:

(2.) The Court shall direct what Person is to execute the Deed for granting and securing the Rentcharge, and every Deed executed accordingly shall have Effect as if the Settlement of the Land comprised in that Deed had contained a Power enabling that Person to grant and secure such a Rentcharge, and so as to operate (if necessary) by way of Revocation and Appointment of the Use or otherwise as the Court directs:

(3.) The following Provisions of the Settled Estates Act, and any Provision amending the same or any of them, shall extend and apply, mutatis mutandis, to the Exercise by the Court of Chancery of the Powers conferred by the present Section, as if the same were here re-enacted; namely, Sections Sixteen, Seventeen, Nineteen, Twenty-two, Twenty-six to Thirty-one, both inclusive, Thirty-six to Forty-two, both inclusive, and Forty-four.

Release of Redemption Rentcharge in consideration of

35. Where a Redemption Rentcharge has been granted, the Incumbent and Churchwardens of the Parish may, at any Time afterwards, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, release from

Transfer of equivalent Stock.

from the Rentcharge the Land out of which it issues, in consideration of the Transfer into the Names of the Governors of a Sum in some of the Public Stocks or Funds producing permanently an Income equal to the Rentcharge.

Any Sum so transferred shall be held by the Governors for the Benefit of the Parish, and in discharge from Liability to Church Charge of the Property for Discharge whereof the Rentcharge was granted.

On such Transfer the Governors shall give a Certificate under their Common Seal, stating the same, and specifying the Property intended to be discharged, and shall send a certified Copy thereof to the Churchwardens of the Parish.

Every such Certificate shall, from a Time to be therein stated, effectually discharge the Property therein comprised from Liability to the Church Charge.

Partial Release of Land from Redemption Rentcharge.

36. Where a Redemption Rentcharge has been granted, and any Person having any Estate or Interest in the Land out of which it issues is desirous of obtaining a Release of Part of the Land from the Rentcharge, then, if the Residue of the Land is sufficient Security for the Rentcharge, the Incumbent and Churchwardens of the Parish may, if they think fit, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, with or without any Consideration, release any Part of the Land from the Rentcharge; and in every such Case the Rentcharge shall continue charged on and issuing out of the Residue of the same Land remaining un-released, with the same Validity and Effect with respect to that Residue as if such partial Release had not been made.

Any pecuniary Consideration received by the Incumbent and Churchwardens for any such Release shall be held by them in trust for the Relief of the Parish from the Church Charge.

Release of Redemption Rentcharge where Land charged is in Settlement.

37. Where a Redemption Rentcharge has been granted under the Authority of the Court of Chancery, and the Land out of which it issues continues comprised in a Settlement, any such partial Release shall not be valid unless the Authority of the Court of Chancery is first obtained; and the Court of Chancery, if the Court deems it proper and consistent with a due Regard for the Interests of all Parties entitled under the Settlement, may authorize any such partial Release, subject and according, as nearly as may be, to the same Restrictions and Provisions as are in this Act provided respecting the granting of a Redemption Rentcharge in case of a settled Estate.

Benefactions for Relief of Parish from Church Charge.

38. Any Person may, notwithstanding any Statute passed or to be passed restraining Alienation in Mortmain or Dispositions for Charitable Uses, by Deed or Testamentary Writing grant, give, or appoint any Property to the Incumbent and Churchwardens of a Parish for any Estate or Interest for which he has Power to dispose thereof, to be held by the Incumbent and Churchwardens and their Successors in trust for or towards the Relief of the Parish from the Church Charge:

Power to any Person to grant or devise Property for Relief of Parish, under Restrictions. [*See 2 & 3 Ann. c. 11. s. 4. 43 Geo. 3. cc. 107, 108.*]

Provided that nothing in the present Section shall empower any Person to give, grant, or appoint any Property for the Relief of more than One Parish, or to give, grant, or appoint any Property the Capital Value whereof exceeds the Value of the Church Charge for the Parish, estimated at *Twenty-seven* Years Purchase of the average annual Produce thereof during the *Seven* Years next before the Gift, Grant, or Appointment takes effect; but so nevertheless that if the Capital Value of any Property expressed or intended to be given, granted, or appointed in pursuance of the present Section is found to exceed the Limit aforesaid, the Gift, Grant, or Appointment thereof shall be invalid under this Act for the Excess only, and the Court of Chancery, on Petition in a summary Way, may make Order for reducing the same to the Limit aforesaid, and may make such further Order in the Matter as seems proper.

39. Any Person who for the Time being holds any Property in trust for the Relief of any Parish from Church Rates or Church Charge may, with the Consent of the Governors of Queen Anne's Bounty, testified in Writing under their Common Seal, transfer the same to the Incumbent and Churchwardens of the Parish and their Successors, to hold in trust for the Relief of the Parish from Church Charge; and thereupon all Powers, Rights, Duties, and Liabilities of that Person in relation to that Property shall cease, except in respect of past Transactions.

Power for Trustees for Relief of Parish to transfer Property to Incumbent and Churchwardens.

Discontinuance of Church Charge in a Parish.

40. Where it is made to appear to the Governors of Queen Anne's Bounty that the Property applicable for the Relief of a Parish from Church Charge, not including any Redemption Rentcharge granted under this Act, produces and will permanently produce an Income equal to the aggregate annual Amount of the Church Charge for the Parish and of any such Redemption Rentcharge, or to such smaller annual Sum as is sufficient to meet the ordinary Expenditure of the Parish for the Purposes for which the Church Charge is applicable, the following Provisions shall have Effect:

Award of Governors of Queen Anne's Bounty for Discontinuance of Church Charge.

(1.) The Governors shall, by a Provisional Award under the Hand of their Secretary, declare that on Confirmation of that Award the levying of the Church Charge in the Parish shall cease, and shall forthwith send a certified Copy of the Provisional Award to the Churchwardens of the Parish, who shall forthwith publish the same:

(2.) The Provisional Award shall not have Effect unless and until it is confirmed by the Governors, and sealed with their Common Seal; nor shall it be so confirmed until after the Expiration of *Two Months* from its Date:

(3.) During that Period of *Two Months* any Owner of Property liable to the Church Charge for the Parish, or any Ratepayer of the Parish, may send to the Governors a Statement in Writing of any Objection on his Part to the Award:

(4.) The Governors shall forthwith send a certified Copy of such Statement of Objection to the Churchwardens of the Parish, who shall forthwith publish the same:

(5.) The Governors shall, within *One Month* after Receipt of such Statement of Objection, and having first given to the Objector and to the Churchwardens of the Parish at least *Fourteen Days* Notice of the Time when they will take the same into consideration, proceed to take the same into consideration, and to hear and determine the Objection, and in case the Objection is not in their Opinion sustained, then to confirm the Award, and seal it with their Common Seal:

(6.) On Confirmation of the Award the Governors shall forthwith send the Award to the Churchwardens, who shall publish it:

(7.) From and after the Confirmation of the Award the levying of the Church Charge in the Parish shall cease:

(8.) Where any Redemption Rentcharge granted under this Act is subsisting at the Time of the Confirmation of the Award the Incumbent and Churchwardens shall, under the Direction of the Governors, release therefrom the Land out of which it issues.

Ecclesiastical Jurisdiction.

Exclusion of Ecclesiastical Jurisdiction.

41. No Ecclesiastical Court or Officer shall have any Jurisdiction or Authority in respect of Church Charge.

Forms.

Forms in Schedule.

42. The Forms given in the Schedule to this Act, or Forms to the like Effect, with such Variations or Additions as Circumstances require,

require, may be used for the respective Purposes in the Schedule indicated and according to the Directions therein contained, and when used shall be sufficient in Law; and any such Form may be in Writing or Print, or partly in Writing and partly in Print.

Saving for Local Acts.

43. Any local Provision made by Authority of Parliament respecting the making or levying of Church Rates in any particular Parish or Place, or the Application thereof, in force at the passing of this Act, shall remain unaffected by this Act.

Regulations as to particular Parish to remain. [*See last Proviso in 53 Geo. 3. c. 127. s. 7.*]

General Savings.

44. Nothing in this Act shall affect—

(1.) Any Action, Suit, or Proceeding commenced before the *First Day of January One thousand eight hundred and sixty-nine* in any Court, Parish, or Place with respect to Church Rate, or to the Purposes for which Church Rate is applicable, or any Jurisdiction, Authority, or Power of any Court, Body, or Person relative to any such Action, Suit, or Proceeding, or any Appeal or other Step that might have been taken therein if this Act had not been passed:

Pending Proceedings, and Cases where Money borrowed on Security of Church Rates.

(2.) Any Proceeding or Remedy for levying or recovering or enforcing Payment of any Church Rate made before the *First Day of January One thousand eight hundred and sixty-nine:*

(3.) The making or levying of any Church Rate in a Parish where Money borrowed before the *First Day of January One thousand eight hundred and sixty-nine* on the Security of the Church Rates of the Parish remains for the Time being due, or where, by virtue of anything done or happening before that Day, Money is for the Time being legally charged on or payable out of the Church Rates of the Parish; and in every such Parish, as long as any Money remains so due, charged, or payable, and for the Purpose only of the Payment of Interest (if any) accruing due in respect thereof, and the Repayment of the Principal thereof, Church Rates shall (notwithstanding anything in this Act) be made and levied as if this Act had not been passed.

SCHEDULE.

Form of Schedule for Assessment of Church Charge.

An Assessment of the Church Charge for the Parish of in the County of made this Day of One thousand eight hundred and after the Rate of Twopence in the Pound.

No.	Name of Occupier.	Name of Owner.	Description of Property liable.	Name or Situation of Property.	Estimated Extent.	Rateable Value.	Church Charge at 2*d.* in the Pound.
1							
2							
3							
&c.							

Declaration of Churchwardens.

We, and Churchwardens of the above-named Parish, do declare the several Particulars specified in the respective Columns of the above-written Schedule to be true and correct, so far as we have been able to ascertain them, to which End we have used our best Endeavours.

(Signed) } Churchwardens.

FORM OF PRECEPT FOR COLLECTION OF CHURCH CHARGE TOGETHER WITH COUNTY RATE.

County of to wit.

To the Guardians of the Union.

THESE are to require you, the Guardians of the Union, from and out of the Monies paid into the Hands of the Treasurer of your Union for the Purposes of your Union, to pay, on or before the Day of into the Hands of *A.B.*, Treasurer of the above-named County, appointed to receive the same, the Sum of £ being the Amount of the several Sums of Money hereunder set down opposite to the Names of the several Parishes, Townships, or Places comprised within your Union, the said several Sums being respectively charged and assessed thereon as the Proportion of the several Parishes, Townships, or Places towards the General County Rate, at in the Pound, made at the last Quarter Sessions (*or* General Sessions) of the Peace held at in and for the said County, together with the Amount of the several Sums of Money hereunder set down opposite to the Names of the same Parishes, Townships, or Places, or some of them, being the Amount of the Church Charge for the Year for each such Parish, Township, or Place, the Particulars for the Collection of which Church Charge in each such Parish, Township, or Place are set forth in the separate Schedule for each such Parish, Township, or Place herewith delivered to you.

(*Signature of the Clerk of the Peace.*)

Names of Parishes.	County Rate at in the Pound.	Church Charge at Twopence in the Pound.

[*This Form is to be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.*]

FORM OF PRECEPT FOR COLLECTION OF CHURCH CHARGE ALONE.

County of to wit.

To the Guardians of Union.

THESE are to require you the Guardians of Union, from and out of the Monies paid into the Hands of the Treasurer of your Union for the Purposes of your Union, to pay on or before the Day of into the Hands of *A.B.*, Treasurer of the above-named County, appointed to receive the same, the Sum of £ being the Amount of the several Sums of Money hereunder set down opposite to the Names of the several Parishes, Townships, or Places comprised within your Union, being the Amount of the Church Charge for the Year for each such Parish, Township, or Place, the Particulars for the Collection of which Church Charge in each such Parish, Township, or Place are set forth in the separate Schedule for each such Parish, Township, or Place herewith delivered to you.

(*Signature of the Clerk of the Peace.*)

Names of Parishes.	Church Charge at Twopence in the Pound.

[*This Form is to be varied according to Circumstances, to suit the Case of Cities, Boroughs, &c.*]

Church Rates Commutation

A

BILL

For the Commutation of Church Rates.

(Prepared and brought in by
Mr. Newdegate and Colonel Stuart.)

Ordered, by The House of Commons, *to be Printed,*
12 *February* 1867.

[Bill 15.]

Under 3 *oz.*

A

BILL

FOR

The Regulation of Church Rates.

WHEREAS it is expedient to relieve certain Persons, Parishes, and Districts from a Liability to the Payment of Church Rates, in the Expenditure of which they have no Interest, and to abolish the Jurisdiction of Ecclesiastical Courts in Suits for the Recovery of Church Rates : Preamble.

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. From and after the *passing of this Act* no Church Rate shall be recoverable by Law, or be levied in any Parish in England or Wales from or upon the Goods of any Person who shall have given Notice, in manner herein-after provided, that he objects to contribute towards the Expenses of the Parish Church, and who shall not have withdrawn such Notice. ChurchRates not recoverable from Persons who shall have given Notice that they object to contribute.

2. Every such Person desiring the Exemption provided by this Act shall, on or before the *Eighth Day of January* of any Year, deliver to or leave at the Abode of One of the Churchwardens of the Parish or Ecclesiastical District wherein the Property is situated Mode of claiming Exemption from Church Rate.

in respect of which he is rateable a Notice signed by him in the Form contained in the Schedule to this Act annexed; and the Delivery or Leaving of such Notice shall be conclusive Evidence that such Person is entitled to Exemption from any Rate levied during the Year then current.

Where Tenant claims Exemption, Owner of Property may be rated.

3. When the Person claiming Exemption is the Tenant of the Property for which he is rateable, the Churchwarden shall, as soon as he receives the Tenant's Claim, send or deliver to the Owner under whom such Tenant holds a Copy of the said Claim, and the Owner of such Property shall be rated, unless he also claim Exemption by the Delivery to the Churchwarden on or before the *Twenty-ninth Day of January* of the Notice set forth in the Schedule of this Act; and it shall be lawful for every Owner who shall become and be rateable as aforesaid to attend, by himself or his Agent, the said Vestry or Meeting, and to exercise all the Rights and Privileges of voting in the same Way as his Tenant would or might have exercised there in respect of such Property if no such Notice had been given by him.

Persons exempt from Church Rate disqualified from attending Church Vestry Meetings.

4. No Person exempt from Church Rate through the Delivery of the Notice aforesaid shall during the Period of Exemption be entitled to attend or vote at any Vestry or Meeting held for the making or applying of a Church Rate, nor to act as Churchwarden in any Matter relating to the Church.

Consecrated Churches and Chapels of Ease not having separate Districts may participate in the Rates made for the Parish Church.

5. It shall be lawful for all consecrated Churches and Chapels of Ease in any Parish, not having Districts assigned to them, to be included and to participate in the Church Rate in common with the Parish Church of that Parish; also it shall be lawful for any Church or Chapel having a Parish or District legally assigned to it, in which Parish or District the Right of making Church Rates has been by special Act of Parliament reserved in perpetuity to the Parish Church or Churches of the Parish or Parishes out of which the said District under the said Act was formed, to participate in the said Church Rates in like Manner with the said Parish Church or Churches.

Parishes separate for Ecclesiastical Purposes liable to pay Rates only for its own Church or Chapel.

6. The rateable Inhabitants or Occupiers of every Parish separate and distinct for Ecclesiastical Purposes of any Parochial Chapelry, or of any Ecclesiastical District which has been assigned to any Church or Chapel other than those Parishes or Districts herein-before mentioned, shall be released from Liability to pay Rates for any other than its own Church or Chapel.

7. It

Church Vestries may be held.

7. It shall be lawful for every Parish or District entitled to levy its own Church Rate as aforesaid to hold a Vestry or Meeting (and any Adjournment thereof), to be designated a Church Vestry, and it shall be competent for such Church Vestry to transact all Business connected with the making or applying of a Church Rate, and none other, and the said Church Vestry shall consist of Persons who are Ratepayers and Occupiers assessed to the Relief of the Poor in the said Parish or District, and who shall not be disqualified under this Act from attending such Church Vestry, and of such Owners of Property or their Agents as shall by this Act be qualified to attend such Church Vestry; and for the Purposes of this Act the Provisions of the Church Building Acts touching the Election of Churchwardens shall be made general; and for the Church of every Parish or District entitled to levy Church Rates One Churchwarden shall be nominated by the Minister of the Parish or District Church, any local Rule or Custom to the contrary notwithstanding.

Minister may appoint One Churchwarden.

Church Rates to be assessable on the same Valuation as the Poor Rate.

8. The Property in any Parish or District as aforesaid which shall be liable or rateable to Church Rates shall be such as is assessed to the Relief of the Poor in the said Parish or District, and shall be assessed for Church Rate on the rateable Value of the said Assessment made for the Relief of the Poor; and in respect of such Property held or occupied by any One Person the whole rateable Value whereof as assessed to the Relief of the Poor shall not exceed *Six Pounds*, the Owner of such Property, whether occupying it or otherwise, shall alone be rated and assessed to the said Church Rate; and every such Owner, unless he shall claim the Exemption as herein-after provided, shall be himself assessed to such Church Rate for every such Property, whether occupied or unoccupied, at a Sum not less than *Three Fourths* of the Amount at which such Property stands assessed as aforesaid to the Relief of the Poor; and every such Owner who shall not claim Exemption from the Payment of Church Rates, as herein-after provided, shall have the same Right, by himself or his Agent, to the Exclusion of the Tenant of such Property, to attend and vote at the Vestry aforesaid, as if he were an Occupier duly rated to the Relief of the Poor in respect of such Property: Provided always, that no greater Number of Votes than *Six* shall be given by any One such Owner for such Properties, One Vote for every such Property up to *Six*, over and above any other Votes such Owner may have at such Vestry.

Jurisdiction of Ecclesiastical Courts

9. The Seventh Section of the Act, Chapter One hundred and twenty-seven, passed in the Fifty-third Year of George the Third,

in Suits for the Recovery of Church Rate to cease.

is hereby repealed, and the Jurisdiction, Power, and Authority of the Ecclesiastical Courts relating to Suits for the Recovery of Church Rates shall cease; but nothing in this Act contained shall affect the Right and Authority of the Ordinary and his Officers to hold Visitation Courts to visit and inspect Churches and Church-yards, and to issue their Directions thereupon, as heretofore.

Proceedings for the Assessment of a Church Rate.

10. *Ten* Days Notice of any Vestry or Meeting for the making of a Church Rate shall be affixed on or near the principal Door of every Church or Ecclesiastical Chapel within the Parish, Chapelry, or District; and at such Vestry or Meeting the Churchwardens, or One of them, shall lay before the Vestry or Meeting an Estimate of the Expenses for which a Church Rate is required, together with a List of those Persons (if there be any) who shall have claimed Exemption in the Manner herein-before provided; and the Rate which shall be agreed to at that or any adjourned Meeting shall be levied upon all Persons liable to it who shall not have claimed Exemption as aforesaid; and the Churchwardens in collecting the Rate shall proceed in the same Way, and have the same Powers, Remedies, and Privileges, and be subject to the same Regulations and Penalties, as Overseers of the Poor would have or be subject to in respect of the Poor Rates; and such Church Rates shall be subject to the same Right of Appeal as the Poor Rate: Provided always, that nothing in this Act contained shall affect the Power of the Ordinary to decide (as at present) upon the Lawfulness of any Ornament, Furniture, or Utensils of the Church, and that if any Dispute arise respecting them, when made Items in a Church Rate, no Rate shall be enforced until the Ordinary have duly and legally decided thereupon.

In Parishes where Money is due on Security of Church Rates, such Rates to be made till Money shall be paid off.

11. Provided always, That in any Parish where a Sum of Money is due on the Security of the Church Rate, such Rates shall be made as before this Act was passed until such Money shall be paid off or discharged; and that nothing herein contained shall prejudice or affect the Provisions of the Act of the Fifth Year of George the Fourth, Chapter Thirty-six, except that the Consent of the major Part of the Persons in Church Vestry assembled shall be substituted for the Consent by the said Act required, and except that the Rates by the said Act authorized shall be collected, demanded, sued for, levied, and recovered by all such Ways and Means as are applicable to the Rates authorized by this Act.

12. In

12. In the Construction of this Act the Word "Churchwardens" shall include Chapelwardens or other Persons discharging the Duties of Churchwardens; and the Words "Church Rate" shall include all Rates in the Nature of a Church Rate. Interpretation.

SCHEDULE.

Form of Notice.

I [*A.B.*] of claim to be exempt from being rated to a Church Rate in respect of Property situate in the Parish of .

Church Rates Regulation.

A

BILL

For the Regulation of Church Rates.

(*Prepared and brought in by Mr. Hubbard and Mr. Beresford Hope.*)

Ordered, by The House of Commons, *to be Printed*, 21 *February* 1867.

[Bill 42.]

Under 1 *oz.*

A

BILL

TO

Validate certain Orders made by the Lord Lieutenant in Council under the Church Temporalities Acts in Ireland, and to increase the Stipends payable by the Ecclesiastical Commissioners for Ireland to certain Incumbents in Ireland.

WHEREAS an Act was passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of His late Majesty King William the Fourth, intituled "An "Act to alter and amend the Laws relating to the Temporalities "of the Church of Ireland," which Act was amended by Two Acts passed respectively in the Sessions of Parliament holden in the Fourth and Fifth and Sixth and Seventh Years of the same Reign, and which several Acts were further amended by Acts passed in the Third and Fourth, Sixth and Seventh, Seventeenth, Eighteenth, and Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty: Preamble. 3 & 4 W. 4. c. 37.

And whereas by the said Acts it was provided (amongst others) that it should and might be lawful for the Lord Lieutenant or other Chief Governors of Ireland and the Privy Council there, in the

Case of any and every Archbishopric, Bishopric, or Deanery (other than therein mentioned), or Archdeaconry, Dignity, Prebend, or Canonry, by and with the Consent and Approbation of the Archbishop, Bishop, Dean, Archdeacon, Dignitary, Prebendary, or Canon thereof, or, whensoever such Archbishopric, Bishopric, Deanery, Archdeaconry, Dignity, Prebend, or Canonry should be void, to disappropriate, disunite, and divest any Rectory, Vicarage, Tithes or Portions of Tithes, and Glebes, or Part or Parts thereof, from and out of any Archbishopric, Bishopric, Deanery, or Archdeaconry, Dignity, Prebend, or Canonry, and to unite any such Rectory, Vicarage, Tithes or Portions of Tithes, to the Vicarages and Perpetual and other Curacies of such Parishes respectively, so that each such Rectory, Vicarage, Tithes or Portions of Tithes, and Glebes, or Part or Parts thereof, should, with its respective Vicarage, Perpetual or other Curacy, form a distinct Parish or Benefice, and that where there was not any Vicar or Curate in any Parish which, or the Tithes or any Portions of the Tithes, and Glebes whereof, might be appropriated or united to any Archbishopric, Bishopric, Deanery, Archdeaconry, Dignity, Prebend, or Canonry, it should and might be lawful for the said Lord Lieutenant or other Chief Governor or Governors and Council, if they should so think fit, by and with the Consent and Approbation of the Archbishop, Bishop, Dean, Archdeacon, Dignitary, Prebendary, or Canon thereof, or, whensoever such Archbishopric, Deanery, Archdeaconry, Dignity, Prebend, or Canonry should be void, to disappropriate, disunite, and divest such Parish, and all Tithes, Portions of Tithes, or Glebes, thereunto belonging, from and out of such Archbishopric, Bishopric, Deanery, Archdeaconry, Dignity, Prebend, or Canonry, and, if they should so think fit, to order and direct that such Parish, Tithes or Portions of Tithes, or Glebes, so disunited, should be and become for ever a separate Benefice and Parish, or, if they should not think fit to erect the same into a separate Benefice or Parish, to order and direct that such Parish, Tithes or Portions of Tithes, or Glebes, so disunited, should (subject as therein mentioned) be transferred to the Ecclesiastical Commissioners for Ireland:

And whereas, in exercise of the aforesaid Powers, Orders have from Time to Time been made by the Lord Lieutenant or other Chief Governor or Governors and Council for disappropriating or disuniting certain Benefices, Tithes, and Glebes theretofore united with or appropriated to certain of the Dignities aforesaid, and for the Transfer of the same to the Ecclesiastical Commissioners aforesaid:

And whereas Doubts have arisen whether some of the Orders for Disappropriation and Transfer to the said Commissioners so made as aforesaid are valid, and it is expedient to remove such Doubts:

Be it therefore enacted by the Queen's most Excellent Majesty, by

by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

All Transfers heretofore made to be valid.

1. All Orders heretofore made by the Lord Lieutenant or other Chief Governor or Governors and Council aforesaid, purporting to be in the Exercise of the Powers herein-before recited, and to transfer to the said Ecclesiastical Commissioners any Parish, Tithes, Portions of Tithes, or Glebes to any Parish belonging, by such or any other Orders disappropriated or divested, or purporting to be disappropriated or divested, from any Archbishopric, Bishopric, Deanery, Archdeaconry, Dignity, Prebend, or Canonry, shall be valid and effectual in Law, notwithstanding that in any such Parish there was at the Date of any such Order a Vicar or Curate discharging the Duties thereof; and that, notwithstanding as aforesaid, all Leases, Renewals, or Grants in perpetuity of any Tithes or Glebes by such Orders intended or purported to be so disappropriated or divested, and transferred to such Commissioners, which have been heretofore made by such Commissioners, shall be valid and effectual.

Leases or Grants heretofore made or hereafter to be made by Commissioners to be valid.

Increase of Stipend of Incumbents of Ballymore, Forgney, and Enniskeen.

2. And whereas by an Order of the Lord Lieutenant and Council aforesaid, made on the Fourteenth Day of December One thousand eight hundred and forty, being One of the Orders herein-before mentioned, the Lord Lieutenant and Privy Council did (amongst others) direct that the Rectories and demised Rectorial Tithes of the several Parishes of Ardagh, Ballymore, Bonowen, Enniskeen, Forgney, Noughill, Nobber, Loughbraccan, Rathcore, and Trim should be disappropriated, disunited, and divested from and out of the Bishopric of Meath, and that the said Rectories and Rectorial Tithes should be transferred to the Ecclesiastical Commissioners for Ireland, and that the Right and Interest in and to the same should vest in the said Commissioners, and should be by them carried to the General Fund under their Administration, charged with certain annual Payments by said Order directed to be by them paid, and (amongst others) with the annual Payment of the Sums of One hundred and fifty-five Pounds, One hundred and eighty-one Pounds Two Shillings, and One hundred and fifty-six Pounds Ten Shillings, to the then Incumbents of the Perpetual Cures of Ballymore, Forgney, and Enniskeen respectively, and to their respective Successors, Incumbents of the said Cures:

And whereas the said Incumbents of Ballymore, Forgney, and Enniskeen have the Cure of Souls in large and extensive Districts, and it is expedient to increase the annual Sums by the said Order to be paid to them respectively:

Be it therefore enacted, That from and after the *passing of this Act* the said General Fund under the Administration of the said Commissioners

sioners shall be charged with and subject to the Payment of the following Sums; that is to say, Two hundred and five Pounds to the present Incumbent of Ballymore, and to his Successors, Incumbents of the said Cure for ever; Three hundred Pounds to the present Incumbent of Forgney, and to his Successors Incumbents of the said Cure for ever; and Three hundred and twenty Pounds to the present Incumbent of Enniskeen, and to his Successors Incumbents of the said Cure for ever; and the said Sums of Two hundred and five Pounds, Three hundred Pounds, and Three hundred and twenty Pounds shall be paid to the said Incumbents respectively, and to their respective Successors Incumbents of the said Cures, by the said Commissioners, in lieu and full Discharge of the annual Payments by the said Order directed to be by them made to the Incumbents of the said Cures and to their Successors.

Church Temporalities Orders (Ireland) Validation, &c.

A

B I L L

To validate certain Orders made by the Lord Lieutenant in Council under the the Church Temporalities Acts in Ireland, and to increase the Stipends payable by the Ecclesiastical Commissioners for Ireland to certain Incumbents in Ireland.

(*Prepared and brought in by Mr. Attorney General for Ireland and Lord Naas.*)

Ordered, by The House of Commons, *to be Printed,* 19 *July* 1867.

[Bill 267.]

Under 1 *oz.*

Clerk to Justices in Counties Bill.

ARRANGEMENT OF CLAUSES.

Preliminary.

Preamble.

Clause.

1. Short Title.
2. Commencement of Act.
3. Extent of Act.
4. Interpretation of Terms.

Appointment of Clerks to Justices.

5. Previous Appointments to continue.
6. Appointment of future Clerks.
7. Clerk may appoint Deputy.
8. Clerks appointed by individual Justices not entitled to Fees.
9. Persons holding certain Offices not to be Clerks to Justices.
10. Clerks to Justices not to act as Advocates.
11. Removal of Clerk to Justices when guilty of Misdemeanor or Misconduct.

The Clerk; his Duties and Powers.

12. The Duties and Powers of the Clerk to the Justices.

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13. Duties and Powers of the Clerk to the Justices in the Matter of Special Sessions.

Salary.

14. Clerk to be paid by Salary.

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15. Home Office to make uniform Table of Fees.
16. Table to be posted in Office, &c.
17. Clerk not to take greater Amount of Fees than allowed by Table.
18. Clerk to keep an Account of Fees received by him.
19. Clerk to pay Fees and Penalties to Treasurer.
20. Clerk failing to pay to be subject to Penalties.
21. Fees due to Clerks may be remitted in certain Cases.

Constables.

22. Police Constables to account for Fees.

Clerk of the Peace.

23. Duties of the Clerk of the Peace in respect to this Act.

Miscellaneous Provisions.

24. Stamps not required.
25. Services of Notices by Post to be valid Services.
26. Fees and Penalties how recovered.
27. Schedule to be taken as Part of this Act.

SCHEDULE.

Schedule A. Forms to be used by Clerks and others.

A

BILL

TO

Regulate the Office of Clerk to Justices in Counties.

WHEREAS it is expedient to regulate the Office of Clerk to Justices in Counties, and to provide uniform Tables of Fees to be taken by Clerks to Justices and Constables in Counties: Preamble.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; that is to say,

Preliminary.

1. This Act may be cited as "The Clerks to the Justices Act, 1867." Short Title.

2. This Act shall commence upon the First Day of *January One thousand eight hundred and sixty-eight.* Commencement of Act.

3. This Act shall not apply to Scotland or Ireland. Extent of Act.

4. In the Interpretation of this Act and of the Schedule thereto the following Words and Expressions shall have the Meaning hereby assigned Interpretation of Terms:

assigned to them, save where there is anything in the Subject or Context repugnant to such Construction; (that is to say,)

"County." "County" shall not include County of a City or County of a Town, or the Police District formed under the Provisions of Second and Third Victoria, Chapter Fifteen, but shall include any Riding, Division, or Liberty of a County having a separate Court of Quarter Session of the Peace:

"Parish." "Parish" shall mean Parish, Township, Tithing, or Place:

"Justice." "Justice" shall mean any One or more Justices of the Peace respectively having Jurisdiction for the County where the Offence or Matter requiring the Cognizance of such Justice or Justices is or is suspected or deemed to have been committed or arises:

"Petty Session." "Petty Session" shall mean Two or more Justices legally acting in and for or for any Sessional Division, whether actually sitting within the County or Division for which they are acting or not:

"Sessional Division." "Sessional Division" shall mean every Division or any Part of such Division constituted under the Acts of the Ninth Year of King George the Fourth, Chapter Forty-three, the Sixth and Seventh Years of King William the Fourth, Chapter Twelve, and of the Twenty-second and Twenty-third Years of Her Majesty, Chapter Sixty-five, or of One or more of them:

"Special Sessions." "Special Sessions" shall mean every Meeting of Justices of the Peace out of Quarter Sessions held in and for any "Sessional Division" or any Part of such Division for particular Purposes, and called in the Acts in that Behalf "Special Sessions" or "Special Petty Sessions," or other like Terms, as well as the General Annual Licensing Meeting for Alehouses:

"Oath." "Oath" shall include solemn Affirmation or Declaration substituted by Law for an Oath:

"Gaol." "Gaol" shall include any House of Correction or Common Gaol of or for the County to which the Person sent thereto may by Law be committed:

"Clerk to the Justices." "Clerk to the Justices," or "Clerk to Justices," or "Clerk" shall mean the Person duly appointed to the said Office for any Sessional Division or any Part thereof under the Provisions of this Act, or his Deputy duly appointed under the Provisions of this Act, and shall also mean any Person holding the Office of Clerk to the Justices at the passing of this Act:

"Treasurer." "Treasurer" shall mean Treasurer of the County in which any Sessional Division is situated:

"Clerk of the Peace." "Clerk of the Peace" shall mean the Clerk of the Peace for the County in which any Sessional Division is situated, and shall include any Officer performing the Duties of Clerk of the Peace:

"Constable"

"Constable" shall mean every Constable, Peace Officer, or other Person belonging to any Constabulary or Police Force, or any Parochial Constable: "Constable."

Appointment of Clerks to Justices.

5. Every Person who at the Commencement of this Act holds the Office of Clerk of any Petty or Special Sessions, or Clerk of a Part of a Sessional Division, or Joint Clerk with another or others in either of the above Offices, shall continue to hold such Office, subject to the Provisions of this Act, till he or they shall die, resign, or be removed; and the Name of such Clerk or Clerks shall be forthwith notified in Writing, and sent by Post to the Clerk of the Peace, signed by Two Justices acting for the Sessional Division of which he is such Clerk, and when so notified he shall be called the Clerk to the Justices of the (naming it) Sessional Division. Previous Appointment to continue.

6. As soon and as often as any Vacancy shall arise in the Office of Clerk to the Justices of any Sessional Division, or any Part thereof, the Justices usually acting for such Division or Part thereof shall, at a Petty Session held for that Purpose (of which Ten Days Notice at least, signed by Two Justices, shall be remitted by Post to the Address of all the other such Justices), appoint some fit and proper Person, who shall be an Attorney-at-Law, to execute the Office for so long a Time only as such Clerk shall well demean himself in his said Office; every such Appointment when made shall be forthwith notified in Writing and sent by Post to the Clerk of the Peace, signed by Two Justices then present; and every such Clerk so appointed shall be called "The Clerk to the Justices of the "(naming it) Sessional Division." Appointment of future Clerks. Qualification.

7. Any Clerk to Justices already or hereafter to be appointed may, with the Approval of the Justices sitting in Petty Sessions, appoint some competent Person as his Deputy to act for him during Illness or unavoidable Absence, during such Period as such Justices may from Time to Time sanction, and any such Deputy shall have all the Powers and perform all the Duties of such Clerk during the Absence of such Clerk as aforesaid: Provided, that it shall be lawful for the said Clerk to cancel such Appointment, and, subject to such Approval as aforesaid, to appoint some other Person as his Deputy as aforesaid: Provided also, that any such Appointment of Deputy as aforesaid shall be signed by Two Justices at least present at such Petty Sessions, and that a Duplicate thereof shall be sent to the Clerk of the Peace, who is hereby directed to file the same. (Form 7.) Clerk may appoint Deputy.

Clerks appointed by individual Justices not entitled to Fees.

8. The Clerk to the Justices, or his Deputy so appointed, shall be the only Clerk to the Justices recognized by Law, or authorized to receive Fees under the Provisions of this Act.

Persons holding certain Offices not to be Clerks to Justices.

9. No Person shall be qualified to hold the Office of Clerk to the Justices who is Clerk of the Peace, the Deputy or Partner of such Clerk of the Peace, or Treasurer of the County, or Clerk or Person in the Employment of either.

Clerks to Justices not to act as Advocates.

10. It shall not be lawful for any Clerk to Justices, or his Partner or Clerk, to be employed or interested in, or to be engaged, practise, or act as the Attorney or Solicitor for any Party before the Justices to whom he is such Clerk, or to act as the Clerk of any Attorney or Solicitor so practising or acting; and if any such Clerk shall be so employed or interested, practise, or act, he shall for every such Offence forfeit and pay the Sum of *One hundred Pounds*, with Costs of Suit, to any Person who shall sue for the same in any of Her Majesty's Courts of Record at Westminster.

Removal of Clerk to Justices when guilty of Misdemeanor or Misconduct.

11. If it appear to any Two Justices of the Sessional Division that their Clerk has misdemeaned himself in the Execution of his Office, or has been guilty of such Misconduct, otherwise than in the Execution of his Office, as in the Opinion of the said Justices to render him an unfit or improper Person to hold his said Office, the said Justices may exhibit against him to the Court of General or Quarter Sessions of the County a Complaint in Writing, stating the Misdemeanor or Misconduct of which the Clerk has been guilty; and it shall be lawful for the said Court, if satisfied, upon due Examination in open Court, that the Clerk complained of has been guilty of the Misdemeanor or Misconduct imputed to him, and that the Misdemeanor or Misconduct is such as to render him an unfit or improper Person to hold his Office, to suspend or remove him from his Office; and thereupon a new Clerk to the Justices shall be appointed in the Manner herein provided.

The Clerk; his Duties and Powers.

Clerk to have an Office.

12. The Duties and Powers of the Clerk to the Justices:

1. He shall have an Office in some convenient Place either in or out of such Division, to be approved by the Justices, which shall be open daily (Sundays, Christmas Day, Good Friday, and any Day appointed for a Public Fast, Humiliation, or Thanksgiving excepted,) from Ten o'Clock in the Morning until Four o'Clock in the Afternoon, except on Saturdays, or some other Day to be fixed by the Justices when Saturday is for local

local Reasons inconvenient, when the Office may be closed at One in the Afternoon:

Seal for each Division to be provided.

2. He shall have a Seal, on which the Words "Justices" and the Name of the Sessional Division shall appear; and all Documents issued from the Office of the Clerk to the Justices, or signed by any Justice, shall bear the Impression of such Seal, which may be printed thereon; and such Seal, however and wherever impressed thereon, shall for all Purposes be deemed the Seal of such Justice, and no further or other Seal shall in any Case be required to any Document, although the same may be or purport to be signed and sealed by more than One Justice, or by the Clerk to the Justices:

To perform usual Duties of Office.

3. He shall perform all the Duties assigned by Statute or Usage to his Office, summons and attend all Petty and Special Sessions in his Sessional Division, attend the Justices acting for such Division in the Performance of their Duties out of Session, make all Returns that may be required of him by Her Majesty's Principal Secretary of State for the Home Department, or by the Order of the General or Quarter Sessions of his County:

Manner of issuing Summonses.

4. In any Case where an Information is authorized to be laid and a Summons granted by a Justice for any County, the Clerk to such Justice may receive such Information and grant such Summons (Form 1.), or, whenever the Complaint is made to a Justice, the Clerk to such Justice may sign and issue such Summons:

Manner of issuing Summonses to Witnesses.

5. In any Case where a Justice for any County has Power to summons a Witness to attend and give Evidence, he the Clerk to such Justice may issue such Summons (Form 2.), or, whenever the Complaint is made to a Justice, the Clerk to such Justice may sign and issue such Summons:

Witnesses refusing or neglecting to appear, how punished.

6. Any Summons granted under the Provision of this Act by the Clerk to the Justices of any Sessional Division, and bearing the Impression of the Seal of the Justices of such Sessional Division, shall have the same Force and Authority as if the same had been granted by a Justice acting for the Division of which he is such Clerk; and if any Person shall neglect or refuse to obey such Summons he shall be dealt with in the Manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three:

11 & 12 Vict. c. 43.

Summonses how to be served in certain Cases.

7. He may, when a Summons is to be served on any Person not resident in the Sessional Division where the Complaint is to be heard, send the same by Post in Duplicate to the Clerk of the

the Justices of the Sessional Divisional where the Defendant is supposed to reside, to be served on such Defendant by some Constable; and such Clerk to the Justices shall as soon as practicable return by Post such Summons, together with an Affidavit (Form 3.) testifying as to the Service of such Summons, and the Cost of such Service, written on the Back thereof, to the Clerk to the Justices by whom it was sent; and such Affidavit may be sworn before any Justice, Clerk to Justices, or Commissioner for taking Affidavits in any of the Superior Courts of Common Law at Westminster, who are hereby empowered to administer such Oath; and the Fee for such Affidavit and Oath shall not be more than One Shilling, which shall, with the Fee of such Service, be Costs incurred by the Complainant, and recovered in a summary Manner, as directed by the Twenty-sixth Section of this Act: The Proof of the Service of such Summons by such Affidavit shall, if the Justices be satisfied with the Service as stated in such Affidavit, and the Sufficiency of the Affidavit, be deemed as good and valid a Proof of such Service as if the same had been proved on Oath in the Presence of the Justices by the Constable or other Person who served such Summons:

Clerks to Justices to administer Oaths.

8. He may, where an Information shall be laid before him, or a Summons to a Witness to attend to give Evidence required as mentioned in the Twelfth Section of this Act, Paragraphs Four and Five, and such Information or Summons are required by any Statute to be taken or granted upon Oath, and where any Affidavit is required to be sworn, as mentioned in the Twelfth Section of this Act, Paragraph Seven, receive such Information and issue such Summons upon Oath (to be taken in the usual Form), and may receive and take such Affidavit, and he is hereby empowered to administer the usual Oath to every Witness, to every Complainant, and to every other Person who shall appear before the Justices to whom he acts as Clerk to prove any Fact or Matter, or to make any Affidavit, Affirmation, or Declaration; and all Persons wilfully and corruptly swearing or affirming falsely before such Clerk to the Justices shall be liable to all the Penalties, Punishments, and Consequences of Perjury:

Refusing to take Oath how punished.

9. Any Oath administered by the Clerk to the Justices of any Sessional Division, under the Provision of this Act, shall have the same Force and Authority as if the same had been administered by any Justice acting for the Division for which he is such Clerk; and if any Person shall refuse to take such Oath, when administered by such Clerk, or having taken such Oath shall refuse to answer such Question concerning the Premises

Premises as shall then be put to him, without offering any just Excuse, he shall be dealt with in the Manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of Her Majesty Queen Victoria, Chapters Forty-two and Forty-three : 11 & 12 Vict. cc. 42, 43.

In certain Cases Clerk may adjourn Sessions.

10. If at the Time mentioned in any Summons for the Hearing of any Complaint or Information, in Cases where such Complaint or Information may be heard and determined by or before One Justice of the Peace, or if at the Time mentioned in any such Summons for the Hearing of any Complaint or Information, in Cases required to be heard by or before Two Justices of the Peace, there shall not be present at the Time and Place mentioned in such Summonses respectively, or within One Hour after the Time mentioned in such Summons, a Justice or Justices qualified to adjudicate on the Matter of such Complaint or Information, then and in every such Case the said Clerk to the Justices shall (in the Names of the Justices of the said Division for which he acts as Clerk) adjourn the Hearing of every such Complaint or Information until the then next Petty Session of the Division, and cause a Minute to be made of such Adjournment and of the Cause thereof, and then and there read such Minute to the Parties then present and their respective Witnesses ; and all Persons summoned or bound by Recognizance to attend at such Session shall be bound to attend to such adjourned Session without any fresh Summons ; and every such Recognizance and Summons shall take effect in the same Manner as if such Recognizance and Summons had required the Parties therein named as Defendants or Witnesses to appear at such adjourned Session :

Clerk may refuse to act until Fees paid.

11. He may refuse (unless he be ordered otherwise by the Justices to whom he acts as Clerk) to do any Act for which a Fee may be demandable under this or any other Act, unless such Fee shall be first paid, as well as the Fees payable to any Constable or other Persons for the Service of any Summons or the Execution of any Warrant, or otherwise in relation to such Act:

Clerk to give Receipt.

12. He shall, whenever any Person shall be liable, under the Provisions of this Act or any other Act or Acts, or otherwise, to pay any Fee for any Information, Summons, or Warrant, or for the Service or Execution of the same, or Affidavit of such Service, or for any Matter done in Petty Sessions, or for any Fine or Penalty imposed by any Justice, give such Person a Receipt (Form 4.) (as far as is applicable) for the Monies so received :

Special Sessions Matters.

Proceedings in certain Cases to be conducted by Clerk to Justices instead of High Constables

13. The Duties and Powers of the Clerk to the Justices in the Matter of Special Sessions:

1. Whenever any High Constable who has been appointed for any Hundred or other District of the Nature of a Hundred shall die, resign, or be removed, then and hereafter any Notice required to be given to or by, any Process to be served upon, or any Matter authorized or required to be done by, the High Constable of such Hundred or other District of the Nature of a Hundred, under the Provision of any Act or Acts of Parliament or otherwise, shall be given to or by and served upon and done by the Clerk to the Justices in respect of the Parishes within the Sessional Division for which he is such Clerk, instead of such High Constable; and such Clerk shall have the same Powers, Rights, and Remedies as such High Constable would have had by virtue of the said Acts, and shall be subject to the same Liabilities: Every Person to or by whom any such Precept as aforesaid is directed or received shall obey the same as if it had been signed and issued by the Justices or High Constable as heretofore, and shall be under the like Penalties for Neglect of Duty:

Clerk may adjourn Special Sessions.

2. If Two Justices qualified to act shall not be in Attendance for One Hour after the Time appointed for the holding of any Special Sessions, then the Clerk to the Justices shall, in the Names of the Justices of the said Division for which he acts as Clerk, adjourn the holding of such Special Sessions, and the Hearing and Determination of any Matters thereat, to such Day and Hour as he shall think fit, and cause a Minute to be made of such Adjournment and of the Cause thereof, and then and there read such Minute to the Parties then present:

As to Notice of Adjournment.

3. No Notice or Precept of or relating to such Adjournment need be affixed in any Place or given to or served on any Person, except upon the Justices residing in or usually acting for the Sessional Division, and except as provided by "The Juries Act, 1862:"

No new Business to be transacted.

4. No Business or Matter by Law required to be done at or in Special Sessions shall be transacted or heard or determined on such adjourned Sessions, except such as was specified in the Notice sent to the Justices of the original Special Sessions:

Acts done after Period allowed not invalid.

Provided always, that all Acts and Things done at such adjourned Special Sessions shall be as valid and effectual as if they had been done by duly qualified Justices at the Time and Place fixed for the holding of the said original Special Sessions.

Salary

Salary.

14. On and after the *First Day of August One thousand eight hundred and sixty-eight* there shall be paid to the Clerk to the Justices for every Sessional Division, in lieu of the Fees which if this Act had not been passed he would have been entitled to receive, such an annual Salary as shall be agreed upon between him and the Justices in General or Quarter Sessions assembled for the County in which such Sessional Division is situated; such Salary not being less than the average Amount of Fees actually received by such Clerk to the Justices and his Predecessor, if any, for the Three Years immediately preceding the passing of this Act; and such Salary shall be a Remuneration in full for all Law and other Books, Printing, Stationery, Postage, Salary of Deputy (if any), and all Charges and Expenses whatever connected with or incidental to the Duties of such Clerk, under the Provision of this Act or any other Acts, or otherwise; and such Salary shall be paid quarterly to such Clerk by the Treasurer of the County out of the County Rates; and whenever, from Death, Removal, or any other Cause whatever, the Clerk of any Sessional Division shall not be entitled to a Salary for a whole of a Quarter, a proportional Part of the Salary shall be paid to him, or in case of his Death to his personal Representatives: Provided always, that in case any such Justices or any such Clerk as aforesaid shall be unable to agree as to the Amount of the Salary to be paid to such Clerk, it shall be lawful for Her Majesty's Principal Secretary of State for the Home Department, and he is required, upon the Application of such Justices or Clerk, to fix and determine the Amount of such Salary, having regard to such average Amount of Fees, if any, as aforesaid; and provided also, that after the Lapse of every successive Period of Three Years it shall be lawful for any such Justices and such Clerk as aforesaid to revise and thereby increase or diminish any such Salary, having regard to the average Amount of Fees received by such Clerk in the Three Years immediately preceding, and subject, in case of their Disagreement, to such Appeal to the Home Secretary as before mentioned.

Clerk to be paid by Salary.

Clerk's Salary how fixed.

Salary how paid.

Appeal to Home Office.

Amount of Salary may be revised.

Fees.

15. Her Majesty's Principal Secretary of State for the Home Department shall, as soon as practicable, make a Table of Fees and Allowances to be paid to and received by the Clerk to the Justices in respect of all Matters done by them in the Execution of their Office, and also a Table of Fees and Allowances which should be paid in respect of the Service of Summonses, Execution of Warrants, and the Conveyance of Prisoners to Gaol, and into other Counties or Places, by Constables and other Persons; and the said

Home Office to make uniform Table of Fees.

Secretary of State may from Time to Time alter such Tables respectively; and when such Tables or altered Tables respectively shall be made the said Secretary of State shall send Copies thereof to the several Clerks of the Peace, to be by them distributed to the several Clerks to Justices and Chief Constables of Counties: Provided always, that until such Tables respectively shall be so made such Fees and Allowances as are now by Law payable in respect of the Matters above mentioned may be received.

Table to be posted in Office, &c.

16. A printed Copy of the Table of Fees in force for the Time being shall be kept posted in a conspicuous Part of the Room or Building in which the Petty or Special Sessions are held, and in the Office of the Clerk to the Justices.

Clerk not to take greater Amount of Fees than allowed by Table.

17. If any Clerk to Justices shall knowingly demand or receive any other or greater Fee or Gratuity for any Act or Business done or transacted by him as such Clerk than such as is set down in the said Table of Fees or altered Table, or in the Table in force applicable to such Clerk, or by any Statute, he shall forfeit for every such Demand or Receipt the Sum of *Twenty Pounds*, with Costs of Suit, to any Person who shall sue for the same in any of Her Majesty's Courts of Record at Westminster.

Clerk to keep an Account of Fees received by him.

18. Every Clerk to Justices shall keep a true and exact Account of all Fees payable to and received by him under this Act, by whom owing, and of whom and when received, and a like Account of all Monies received and paid by him, for Penalties, or Sums of Money for Costs, Constables Fees, or otherwise, as such Clerk, of whom and when received, and to whom and when paid, such Accounts respectively being called, for Matters done in Petty Session, "The Fees and Penalties Book" (Form 5.), and for Matters done in Special Session "The Special Session Fee Book" (Form 6.), and such Books, as well as the Receipts and Vouchers for all Sums paid by him, shall be open at all reasonable Times to be inspected by any Justice of the County or any Person authorized by him.

Account may be inspected.

Clerk to pay Fees and Penalties to Treasurer.

19. The Clerk shall pay the Fees and Penalties received by him Four Times in every Year, or as often and at such Period as the Court of Quarter Sessions shall direct in that Behalf, and such Clerk shall at the same Time render a fair Copy or Transcript of the "Fees and Penalties Book and Special Session Fee Book" mentioned in Section Eighteen, and shall sign his Name to and certify to the Correctness of such Copies as Transcripts.

20. If

20. If any Clerk to Justices shall wilfully render an Account untrue in any Particular, or shall fail to pay over the Amounts due thereon, or any other Sums, as in this Act directed, or shall refuse to allow such Inspection as mentioned in Section Eighteen, he shall forfeit not exceeding the Penalty of *Five Pounds* for every such Default or Refusal, to be recovered, with the Amount, if any, of Penalties or other Sums unaccounted for and unpaid, as Penalties, in a summary Manner, as directed by the Twenty-sixth Section of this Act.

Clerk failing to pay to be subject to Penalties.

21. Whenever a Fee is payable to the Clerk, under this Act or otherwise, the Justices present may remit such Fee, in whole or in part, for Poverty or other reasonable Cause, in his or their Discretion, and in any such Case such Justices shall enter or cause an Entry to be made of such Remission in the proper Column of the "Fees and Penalties Book" mentioned in Section Eighteen, and of the Reason for such Remission, which Entry shall be signed by such Justices, and shall be a sufficient Voucher to discharge the Clerk therefrom.

Fees due to Clerks may be remitted in certain Cases.

Constables.

22. No Constable (except a Parish Constable) shall receive to his own Use any Fees or Allowances, and when he shall receive any Fees or Allowances he shall account and pay over the same to the Chief or Superintendent of the Police Force to which he belongs, in manner directed by the Regulations of such Force; in default the same may be recovered in a summary Manner as directed by the Twenty-sixth Section of this Act.

Police Constables to account for Fees.

Clerk of the Peace.

23. The Duties of the Clerk of the Peace in respect to Matters contained in this Act:

Duties of the Clerk of the Peace in respect to this Act.

1. He shall as soon as practicable provide a Seal, as mentioned in the Twelfth Section, Paragraph Two, of this Act, and transmit the same to the Clerk to the Justices, and the Costs of such Seal shall be paid by the Treasurer out of the County Rate:

To provide Seal.

2. He shall record in a Book (Form 7.) the Names of all the Clerks to the Justices, and their Deputies, when notified to him, as mentioned in the Sixth and Seventh Sections of this Act, and shall once in each Year lay a Copy of such Book before the Justices assembled in General or Quarter Sessions:

Names of Clerks to be registered.

3. He shall permit the Book described in the preceding Paragraph to be inspected at all reasonable Times by any Justice of the County.

Register may be inspected.

Miscellaneous Provisions.

Stamps not required.

24. No Appointment made by Justices under this Act, and no Receipt for Money given by any Treasurer, Clerk to Justices, Constable, or other Official, acting under the Provisions of this At, shall be subject to any Stamp Duty.

Services of Notices by Post to be valid Services.

25. It shall be deemed a good and valid Service of any Notice or Precept to be served on or by any Person under the Provisions of this Act (except any Summons requiring any Person to attend before any Justice or Justices to answer any Charge that may be made against him) if such Notice or Precept be sent by Post in a prepaid and registered Letter, addressed to the Person on whom it was intended to be served.

Fees and Penalties how recovered.

26. Fees, Allowances, Penalties, and Expenses under this Act directed to be recovered in a summary Manner may be recovered before Two Justices in manner directed by an Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her Majesty Queen Victoria, Chapter Forty-three.

Schedule Part of this Act.

37. The Schedule to this Act shall be deemed Part of this Act.

SCHE-

SCHEDULE (A.)

Form 1.

Sessional Division, County of .

Summons to the Defendant upon an Information or Complaint by Clerk of Justices.

To *A.B.* of [*Labourer*].

Whereas Information has this Day been laid [*or* Complaint has this Day been made] before the undersigned, Clerk to the Justices of the Sessional Division of in the said County of [*or* before *C.D.*, One of Her Majesty's Justices of the Peace in and for the said County of , by *E.F.* of [*here state shortly the Matter of the Information or Complaint*]: These are therefore to require you to be and appear on at o'Clock in the Forenoon at before such Justices acting for the said County of as may then be there, to answer to the said Information [*or* Complaint], and to be further dealt with according to Law.

Given under my Hand, and the Seal of the said Sessional Division, this Day of in the Year of our Lord .

G.H. Seal.
Clerk to the said Justices [for the Sessional Division of .]

Form 2.

Sessional Division, County of .

Summons of a Witness by Clerk to Justices.

To *A.B.* of

Whereas Information was laid [*or* Complaint was laid] before the undersigned, Clerk to the Justices of the Sessional Division of in the County of [*or C.D.*, One of Her Majesty's Justices of the Peace in and for the said County of], by *E.F.* of for that [*&c. as in Summons*],

and it hath been made to appear to me upon [*Oath*] that you are likely to give material Evidence on behalf of the [Complainant *or* Defendant] in this Behalf: These are therefore to require you to be and appear on at o'Clock in the Forenoon at before such Justices acting for the said County of as may then be there, to testify what you shall know concerning the Matter of the said Information [*or* Complaint].

Given under my Hand and the Seal of the said Sessional Division this Day of in the Year of our Lord .

G.H. Seal.
Clerk to the Justices for the Sessional Division of .

FORM 3.

I *A.B.*, Superintendent of Police [*or* Constable] in the *C.D.* Sessional Division in the County of *E.F.*, make Oath and say, That I did on the Day of 18 serve *G.H.* by* with a Duplicate of the Summons hereto annexed.

Sworn at in the County of this Day of 18 , before me, *L.M.* } Signed *J.K.*

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* State Manner of Service, whether personally or otherwise.

FORM 4.

Sessional Division. *A.B.* v. *C.D.*	£	*s.*	*d.*	Sessional Division. *A.B.* v. *C.D.*	£	*s.*	*d.*
Information and Summons				Information and Summons			
Information and Warrant				Information and Warrant			
Police Service - -				Police Service - -			
Affidavit of Service -				Affidavit of Service -			
Oaths - -				Oaths - -			
Witnesses - -				Witnesses - -			
Conviction - -				Conviction - -			
Clerk of the Peace filing Conviction - -				Clerk of the Peace filing Conviction - -			
Commitment - -				Commitment - -			
Received the above, *E.F.*, Clerk to the Justices.				Received the above, *E.F.*, Clerk to the Justices.			

FORM 5.

FORM 5.

Fees and Penalties Book.

Sessional Division.

Date of Hearing and Receipt.	Before whom heard.	Parties in the Case.	Offence or Matter.	Receipts.						Payments and Application of Penalties, &c.	Reasons for Nonpayment of Fees or Penalties.	Excused by Order of Justices.	Justices Signatures to excused List.
				For Justices Clerks.	Fines, &c.								
					For County Rate.	For Superannuation Fund.	For other Parties.	For Constables Fees.					

Form 6.

Special Sessions Fee Book.

_____ Sessional Division.

Date of Special Sessions or adjoined Special Sessions.	Justices present.	Special Business.	Amount of Fees received. £	s.	d.	Payments and Application of Fees.	Reasons for Non-payment.	Remarks.

Form 7.

Clerks to Justices and their Deputies registered to act for the several Sessional Divisions in the County of _____.

Name of Sessional Division.	Name of Clerk.	Place of Clerk's Office and Post Town.	Date of Clerk's Certificate as an Attorney.	Amount of Annual Salary. £	s.	d.	Name of Deputy, Date of Appointment, and for how long registered.

Counties.

A

BILL

To regulate the Office of Clerk to Justices in Counties.

(*Prepared and brought in by Mr. Colvile, Mr. Paull, and Mr. Pease.*)

Ordered, by The House of Commons, *to be Printed*, 26 *July* 1867.

[Bill 286.]

Under 3 *oz.*